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December 21, 2006

**BY OVERNIGHT DELIVERY**

Hon. Frederick J. Scullin, Jr., U.S.D.C.J.  
United States District Court  
James Hanley Federal Building  
100 South Clinton Street  
Syracuse, New York 13261-7367

Re: State of New York v. Honeywell International Inc., Docket No. 89-CV-815  
Request for Approval and Entry of Proposed Consent Decree

Dear Judge Scullin:

Under cover letter dated October 11, 2006, plaintiff State of New York ("State") lodged a proposed consent decree with the Court that would settle the State's claims for the cleanup of contaminated sediments in Onondaga Lake asserted in the above referenced action. The proposed consent decree establishes the terms and conditions pursuant to which defendant Honeywell International Inc. would implement the cleanup remedy jointly selected by the United States Environmental Protection Agency ("EPA") and the New York State Department of Environmental Conservation ("DEC") in July 2005.

The October 11, 2006 letter requested that the Court not enter or otherwise act on the proposed decree until the State had considered public comments on the proposed decree, and EPA and DEC had considered public comments on the draft Explanation of Significant Differences ("ESD"), which would modify the July 2005 remedy. The draft ESD is attached to the proposed consent decree as appendix "B."

I write to inform the Court that: (1) the State has considered the comments received from members of the public and has determined that the comments do not disclose facts or considerations which indicate to the State that the proposed consent decree is inappropriate, improper, or inadequate; and (2) on December 14, 2006, after considering public comments on

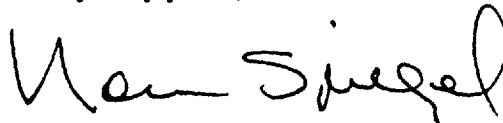
the draft ESD, EPA and DEC jointly approved the draft ESD as a final document without any revisions.

Accordingly, the State respectfully requests, consistent with the provisions in paragraph 94 of the proposed consent decree and the October 11, 2006 letter, that the Court approve and enter the proposed consent decree as an order of the Court. The State also requests that the Court insert in paragraphs 12 and 36 of the decree the date, *i.e.*, December 14, 2006, that the draft ESD was approved by EPA and DEC as a final document. Copies of the pages in the decree containing paragraphs 12 and 36, pages 4 and 14 respectively, as revised, are submitted herewith for the convenience of the Court.

Attached to this letter are: Appendix "A" which consists of the written comments submitted by members of the public, a transcript of an October 19, 2006 public meeting which includes oral comments from those in attendance and the State's written responses to the written and oral comments; and Appendix "B" which is the ESD with EPA's and DEC's approvals affixed/annexed thereto. The State requests that this letter and the attached appendices be filed with the consent decree.

The parties are available at the Court's convenience to address any questions or concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Norm Spiegel". The signature is fluid and cursive, with the first name "Norm" and last name "Spiegel" clearly distinguishable.

NORMAN SPIEGEL  
Assistant Attorney General  
Bar Roll No. 102652

cc: Hon. David E. Peebles, M.J.  
Thomas H. Milch, Esq., Arnold & Porter LLP  
Brian D. Israel, Esq., Arnold & Porter LLP



jointly selected a remedy in a ROD for the Lake Bottom subsite and released their responses to the comments received from the public on the Proposed Plan. A copy of the July 1, 2005 ROD without appendices is attached hereto as Appendix A. On December 14, 2006, the State and EPA jointly issued an Explanation of Significant Differences ("ESD") documenting certain modifications to the remedy. A copy of the ESD is attached hereto as Appendix B. The July 1, 2005 ROD as modified by the December 14, 2006 ESD is hereinafter referred to as the "ROD."

13. In order to address the threat to public health, welfare and the environment posed by the contamination of the Lake Bottom subsite, the selected remedy, broadly described, provides for: (i) dredging and proper disposal of as much as approximately 2,653,000 cubic yards of contaminated sediments and wastes; (ii) construction of an isolation cap over an estimated 425 acres in the shallower areas (littoral zone); (iii) construction of a thin-layer cap over an estimated 154 acres in the deeper areas (profundal zone); (iv) performance of a pilot study which involves the introduction of oxygen into the profundal zone; (v) re-establishment of habitat injured by implementation of the remedy and enhancement of habitat in certain near-shore areas; (vi) monitored natural recovery in areas of the profundal zone; (vii) implementation of institutional controls; and (viii) long-term operation, maintenance and monitoring.

14. Pursuant to ECL Article 27, Title 13; ECL Article 71, Title 27; and ECL § 3-0301, the State has the responsibility and authority to establish the terms and conditions under which Honeywell will design and implement the remedy selected in the ROD for the Onondaga Lake Bottom subsite, and Honeywell would be obligated pursuant to ECL § 27-1313 to design and implement the selected remedy in compliance with the terms and conditions established by the State.

to implement pursuant to this paragraph is hereinafter referred to as an "Included Modification." Included Modification shall also include within its meaning any modification that the parties have agreed to in writing. Nothing in this Consent Decree shall affect the State's right, in conjunction with EPA, to modify or amend the ROD. However, references to the ROD in this Consent Decree are to the ROD adopted by the State and EPA in July 2005 as modified by the December 14, 2006 ESD.

37. In the event that the State requires a modification pursuant to paragraph 36 and Honeywell believes that the proposed modification is not an Included Modification, then Honeywell may invoke the Dispute Resolution procedures set forth in paragraphs 44-52. If the modification is determined either by agreement in writing of the parties or pursuant to the Dispute Resolution procedures set forth in paragraphs 44-52 not to be an Included Modification, then, as regards such modification, the parties reserve all claims, rights and defenses as provided in paragraph 78.

#### **Progress Reports**

38. Honeywell shall submit to the State (see paragraphs 81-83 for recipients and number of copies to be distributed) written monthly progress reports that:

A. Describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month;

B. Include the raw data received by Honeywell during the previous month concerning sampling undertaken and test results generated pursuant to this Consent Decree, and all other raw data and/or validated data received or generated by Honeywell or Honeywell's contractors, laboratories or other agents during the previous month, including quality

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X

STATE OF NEW YORK and DENISE M. SHEEHAN as  
Trustee of the Natural Resources,

Plaintiffs,

-against-

HONEYWELL INTERNATIONAL INC.

Defendant.

-----X

89-CV-815

Chief Judge Scullin

**REQUEST FOR APPROVAL AND ENTRY OF  
PROPOSED CONSENT DECREE**

**APPENDIX A, PART I**

**DATED: DECEMBER 21, 2006**

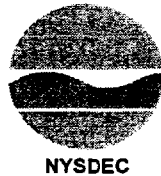


**ONONDAGA LAKE BOTTOM SUBSITE  
OF THE ONONDAGA LAKE SUPERFUND SITE**

**SYRACUSE, NEW YORK**

**RESPONSIVENESS SUMMARY**

**Consent Decree, Explanation of Significant Differences, and Sediment  
Consolidation Area Siting Evaluation**



**DECEMBER 2006**

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ALBANY, NEW YORK**

**EARTH TECH  
NEW YORK, NEW YORK**

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**ONONDAGA LAKE CONSENT DECREE, ESD, AND SCA SITING  
EVALUATION  
RESPONSIVENESS SUMMARY**

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## LIST OF ACRONYMS AND ABBREVIATIONS USED IN RESPONSIVENESS SUMMARY

ARAR	applicable or relevant and appropriate requirement
ACJ	Amended Consent Judgment
ASLF	Atlantic States Legal Foundation
BERA	baseline ecological risk assessment
BSQV	bioaccumulation-based sediment quality value
CAC	Citizens Advisory Committee
CCE	Citizens Campaign for the Environment
CD	Consent Decree
CEH	Council on Environmental Health [Onondaga County]
CFR	Code of Federal Regulations
CO	Consent Order
CPOI	chemical parameter of interest
CTV	cap threshold value
cy	cubic yard
EPA	Environmental Protection Agency
ESD	Explanation of Significant Differences
ESF	Environmental Science and Forestry (SUNY)
FS	feasibility study
HHRA	human health risk assessment
ILWD	in-lake waste deposit
LCP	Linden Chemicals and Plastics
Metro	Metropolitan Syracuse Sewage Treatment Plant
mg/kg	milligrams per kilogram
NAPL	non-aqueous-phase liquid
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
ng/L	nanograms per liter
NRD	Natural Resource Damage
NRRB	National Remedy Review Board
NYCRR	New York Code of Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
OLP	Onondaga Lake Partnership
OSWER	Office of Solid Waste and Emergency Response
PCB	polychlorinated biphenyl
PDI	pre-design investigation



PEC	probable effect concentration
PECQ	probable effect concentration quotient
ppt	parts per trillion
RAO	remedial action objective
RI	remedial investigation
RI/FS	remedial investigation/feasibility study
ROD	Record of Decision
RS	responsiveness summary
SCA	sediment consolidation area
SMU	sediment management unit
SOW	Statement of Work
SUNY	State University of New York
TAG	Technical Assistance Grant
µg/L	micrograms per liter
USEPA	US Environmental Protection Agency
VOC	volatile organic compound
WTP	Wastewater Treatment Plant

# **ONONDAGA LAKE CONSENT DECREE, ESD, AND SCA SITING EVALUATION RESPONSIVENESS SUMMARY**

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## **PUBLIC REVIEW PROCESS**

### **INTRODUCTION**

This Responsiveness Summary (RS) provides a summary of comments and concerns received during the public comment period related to the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site proposed Consent Decree, and documents relating to the draft Explanation of Significant Differences (ESD) and the draft SCA Siting Evaluation for the Sediment Consolidation Area (SCA), and provides the responses of the New York State Department of Environmental Conservation (NYSDEC) to those comments and concerns. The U.S. Environmental Protection Agency (EPA) coauthored the draft ESD with the NYSDEC and has sent NYSDEC a letter in which it concurs in its issuance, as a final ESD. EPA has also concurred in the finalization of the SCA Siting Evaluation. The responses in the RS with respect to the Consent Decree between the State and Honeywell are NYSDEC's and do not necessarily represent the position of EPA. The Remedial Investigation/Feasibility Study (RI/FS) reports (TAMS, 2002a,b,c; Parsons, 2004) describe the nature and extent of the contamination at the Onondaga Lake site and evaluate remedial alternatives to address this contamination. The Proposed Plan (NYSDEC, 2004) identified NYSDEC's preferred remedy and the basis for that preference. Following public review of the Proposed Plan from November 29, 2004 through April 30, 2005, as well as review by EPA's National Remedy Review Board (NRRB), NYSDEC and EPA issued a Record of Decision (ROD) for the Onondaga Lake Bottom Subsite in July 2005. The ROD documents the selection of a remedy for the subsite. Comments received from the public during the Proposed Plan comment period were responded to in a Responsiveness Summary (July 2005), which is an attachment to the ROD (NYSDEC and USEPA, 2005).

Following issuance of the ROD and the commencement of pre-design investigation (PDI) activities, three documents were released by NYSDEC on October 12, 2006—the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA. The proposed Consent Decree is the formal agreement between New York State and Honeywell to implement the ROD. The draft ESD details a change in a portion of the selected remedy. The draft SCA Siting Evaluation details the factors assessed in selecting the location for the SCA. These documents were made available for public review and comment during a 30-day comment period, from October 12, 2006 through November 13, 2006.

Public involvement in the review of Proposed Plans is stipulated in Section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, and Sections 300.430(f)(3)(i)(F) and 300.430(f)(5)(iii)(B) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). These regulations provide for active solicitation of public comment. Section 122(d)(2) of CERCLA provides for a 30 day comment period before a consent judgment to which the United States is a party is to be entered by the court as a final judgment. Although the United States is not a party to the proposed Consent Decree,

the State nonetheless followed the public participation procedures of CERCLA Section 122(d).

All public comments submitted during the public comment period are addressed in this RS, which was prepared following guidance provided by EPA in EPA/540-R-92-009 and the EPA Office of Solid Waste and Emergency Response (OSWER) in OSWER 9836.0-1A. The comments presented in this document have been considered in NYSDEC's finalization of the Consent Decree, and documents relating to the ESD and SCA Siting Evaluation.

The text of this RS explains the public review process and how comments were responded to. In addition to this text, there are two attachments:

- |              |   |
|--------------|---|
| Attachment 1 | The Comment and Response Index, which contains summaries of every comment received and NYSDEC's responses.  |
| Attachment 2 | Comments provided during the public comment period, including letters, e-mails, and oral statements. This attachment contains copies of every comment received. |

## **PUBLIC REVIEW PROCESS**

NYSDEC relies on public input to ensure that the concerns of the community are considered with respect to the remediation of each Superfund site. To this end, the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA, for the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site, Syracuse, New York, were made available to the community on October 12, 2006. Fact sheets on the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA were also released and are all available on NYSDEC's website (<http://www.dec.state.ny.us/website/der/projects/ondlake>).

The complete Administrative Record file, which contains the information (including the Onondaga Lake RI, Human Health Risk Assessment [HHRA], Baseline Ecological Risk Assessment [BERA], and FS) upon which the selection of the response action has been based, is available at the asterisked locations listed in the text box below. The other listed repositories contain the key documents (e.g., RI/FS reports, Proposed Plan, ROD, proposed Consent Decree, and documents relating to the draft ESD and the siting of the SCA) but do not contain the entire Administrative Record.

## **PUBLIC COMMENT PERIOD AND PUBLIC AVAILABILITY SESSION AND MEETING**

The public comment period was intended to obtain the views of the public regarding the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA. A notice of the commencement of the public comment period, the public meeting date, a summary of the selected remedy and the three documents, contact information, and the availability of the above-referenced documents was published in the *Syracuse Post-Standard* on October 12, 2006. In addition, related fact sheets were mailed to interested parties and posted on NYSDEC's website.

**Information Repositories for the Onondaga Lake Superfund Site  
Administrative Record**

**\*Atlantic States Legal Foundation**

658 West Onondaga Street  
Syracuse, NY 13204  
(315) 475-1170  
Please call for hours of availability

**Liverpool Public Library**

310 Tulip Street  
Liverpool, NY 13088  
Hours: M – Th, 9:00 a.m. – 9:00 p.m.; F, 9:00 a.m.  
– 6:00 p.m.; Sat, 10:00 a.m. – 5:00 p.m.; Sun,  
12:00 p.m. – 5:00 p.m.  
Phone: (315) 457-0310

**Camillus Town Hall**

4600 West Genesee Street, Room 100  
Syracuse, New York 13219  
Hours: M-F 8:30 a.m. - 4:30 p.m.  
Phone: (315) 488-1234

**Moon Library**

SUNY ESF  
1 Forestry Drive  
Syracuse, NY 13210  
Hours: check <http://www.esf.edu/moonlib/>  
Phone: (315) 470-6712

**\* NYSDEC, Region 7**

615 Erie Blvd. West  
Syracuse, NY 13204  
(315) 426-7400  
Hours: M – F, 8:30 a.m. – 4:45 p.m.  
Please call for an appointment

**\* NYSDEC**

625 Broadway  
Albany, NY 12233-7016  
(518) 402-9767  
Hours: M – F, 8:30 a.m. – 4:45 p.m.  
Please call for an appointment

**Onondaga County Public Library**

Syracuse Branch at the Galleries  
447 South Salina Street  
Syracuse, NY 13204-2400  
Hours: M, Th, F, Sat, 9:00 a.m. – 5:00 p.m.; Tu, W,  
9:00 a.m. – 8:30 p.m.  
Phone: (315) 435-1800

The public comment period for the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA commenced on October 12, 2006 and continued until November 13, 2006. During that period, a public availability session and public meeting were held on October 19, 2006 at the New York State Fairgrounds in Syracuse, New York. Approximately 100 people, including residents, local business people, university students, media, and state and local government officials, attended the public meeting and the availability session. A question-and-answer session followed the formal presentation at the public meeting. A complete transcript of the public meeting can be found in Attachment 2 of this document.

## **RECEIPT AND IDENTIFICATION OF COMMENTS**

Public comments on the three new documents as well as general comments on the remedy selection and the site were received in several forms, including:

- Written comments submitted to NYSDEC via e-mail.
- Written comments submitted at the public availability session or meeting.
- Written comments mailed or faxed to NYSDEC.
- Oral comments made at the public meeting.

Each submission received, whether written or contained in the transcript of the public meeting, was assigned one of the following letter codes:

- N – Onondaga Nation.
- R – Regional agencies and officials.
- L – Local agencies and officials.
- G – Groups and associations.
- P – Public (individuals).
- O – Oral (comments presented at the October 19, 2006 public meeting).

These codes were assigned for the convenience of readers and to assist in the organization of this RS; there was no priority or special treatment given to one commentor over another in the responses to comments.

Within each of the coded categories, the comments were put in alphabetical order (based on last name) and assigned a number, such as L-1, P-1, and so on. In addition, each separate comment was assigned a separate sub-number. Thus, if a citizen made three different comments (e.g., within a letter), they are designated as P-1.1, P-1.2, and P-1.3.

A directory that lists all comments received and the associated coding is included as Table 1.

In addition to being summarized in the Comment and Response Index (Attachment 1), copies of all written submissions have been included in Attachment 2. The alphanumeric code associated with each written submission is marked at the top of the first page of each letter and the sub-numbers of the individual comments are marked in the margin next to the text that begins the comment.

Oral comments (*i.e.*, made at the October 19, 2006 public meeting) are included in the transcript of the meeting, and have been coded in the same manner as the written comments. In addition to being summarized in the Comment and Response Index (Attachment 1), oral comments are in Attachment 2, which provides full copies of all comments. It should be noted that a distinction has been made between oral comments delivered at the public meeting (on pages 28 through 70 of the transcript included in Attachment 2) and questions that were asked and responded to during the question-and-answer session at the public meeting. Because these questions have already been replied to as recorded in the transcript (on pages 72 through 84 of the transcript included in Attachment 2), they have not been summarized in the Comment and Response Index (Attachment 1).

## **LOCATING RESPONSES TO COMMENTS**

The Comment and Response Index (Attachment 1) contains a complete listing of all comments and NYSDEC's responses. The index allows readers to find answers to specific questions they have raised and is organized as follows:

- The first column lists the name of the commentor, according to type (e.g., group, public).

- The second column identifies the alphanumeric file code assigned to each comment (e.g., G-5.13, P-4.2, etc.). A commentor should first review Table 1 to determine the coding for his or her comment.
- The third column provides a summary of the comment.
- The fourth column provides the response to the comment.

Example:

Name/Agency	Comment Code	Comment Summary	Response
Les Monostory, President, Onondaga County Federation of Sportsmen's Clubs	G-3.3	The commentor states that, "An important feature of the cleanup plan is that the Consent Decree has in place standards to be met, rather than dollar figures, for attainment of future fish and sediment target levels."	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is noted in the response to Comment N-2.10, the selected remedy addresses all areas of the lake where the surface sediments exceed a mean probable effect concentration quotient (PECQ) of 1 or a mercury PEC of 2.2 mg/kg. The selected remedy will also attain a 0.8 mg/kg BSQV for mercury on an area-wide basis for the lake and for other applicable areas of the lake to be determined during the remedial design. The selected remedy is also intended to achieve lakewide fish tissue mercury concentrations ranging from 0.14 mg/kg, which is for protection of ecological receptors, to 0.3 mg/kg, which is based on EPA's methylmercury National Recommended Water Quality criterion for the protection of human health for the consumption of organisms. The description of the selected remedy in the ROD is based on performance of required technical aspects of the design, implementation, and monitoring of the remedy. It is correct that Honeywell's commitment is to perform these actions to meet the remedial goals, not to spend a specific amount of money.</p>

It was not always clear if a commentor intended to represent an organization/group or simply himself/herself. The reader is advised to examine Table 1 and the Comment and Response Index for both the group (G) listing for the name of the group, firm, or association used on the letterhead of a written submission and the public (P) list for his/her own name.

NYSDEC carefully considered each comment received and made every effort to be fully responsive. All comments received are addressed in this RS, and a copy of every comment is provided in Attachment 2. A summary of the proposed Consent Decree, draft ESD, and draft SCA Siting Evaluation, and the comments on these documents and other comments received, is provided in the section below.

Also, it is important to note that many comments were on the subject of remedy selection rather than the proposed Consent Decree and documents relating to the draft ESD and the siting of the SCA. A detailed discussion on the remedy selection process and the basis for that selection was provided in the ROD issued in July 2005 following an extensive public review and comment period on the Proposed Plan (November 2004). Responses to all comments received during the Proposed Plan public review period were documented in the ROD's Responsiveness Summary (issued with the ROD in July 2005). For some of the comments received during the comment period on the proposed Consent Decree, draft ESD, and draft SCA Siting Evaluation, the responses in the attached Comment and Response Index provide a summary of the response to comment from the ROD's Responsiveness Summary along with a reference to the specific comment number (e.g., "As discussed in the response to Frequent Comment #4 in the ROD Responsiveness Summary, ..."). In these cases, the commentor can also review the ROD and ROD Responsiveness Summary for additional information. These documents can be found on NYSDEC's website at: <http://www.dec.state.ny.us/website/der/projects/ondlake/rod.html>, and at the document repositories listed on page 3.

# **ONONDAGA LAKE CONSENT DECREE, ESD, AND SCA SITING EVALUATION RESPONSIVENESS SUMMARY**

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## **OVERVIEW AND SUMMARY OF PUBLIC COMMENTS**

### **OVERVIEW OF THE CONSENT DECREE, ESD, AND SCA SITING EVALUATION**

#### **BACKGROUND**

Honeywell International, Inc., and its predecessor companies operated manufacturing facilities in Solvay, New York, from 1881 until 1986. In June of 1989, the State filed a legal action in US District Court against Allied, seeking environmental remediation and natural resource damages arising from the company's pollution of the Onondaga Lake system. The lake and related contaminated areas were listed on EPA's Superfund National Priorities List in December 1994 and are included on the State Superfund list.

A Remedial Investigation (RI), which was completed in 2002, investigated the nature and extent of contamination in Onondaga Lake. It included the collection and analysis of over 6,000 samples (e.g., sediment, water, groundwater, and biota). The RI found mercury contamination throughout the lake, with the most elevated concentrations detected in sediments in the Ninemile Creek delta and in the sediments and wastes present in the southwestern portion of the lake. Other contaminants present within Onondaga Lake sediments include benzene, toluene, ethylbenzene, and xylenes, chlorinated benzenes, polycyclic aromatic hydrocarbons, polychlorinated biphenyls, and polychlorinated dioxins and furans. These contaminants are primarily found in the southwestern portion of Onondaga Lake. Much of the contamination in this part of the lake is present in an 84-acre area known as the in-lake waste deposit (ILWD). Elevated concentrations of some contaminants in certain locations of the ILWD extend to a depth of at least 25 feet in lake sediments. Onondaga Lake fish have elevated contaminant levels and contamination in the lake presents risks to all trophic levels of the Onondaga Lake ecosystem.

In addition to determining the nature and extent of contamination, the RI also included an evaluation of the fate and transport of contaminants, and the completion of a human health risk assessment and a baseline ecological risk assessment.

On November 29, 2004, NYSDEC issued for public comment a Proposed Plan, or cleanup plan, along with a Feasibility Study (FS) prepared by Honeywell (Parsons, 2004), for addressing hazardous waste concerns in Onondaga Lake. After considering public comments, a ROD was issued for the Onondaga Lake Bottom Subsite on July 1, 2005 by the NYSDEC and EPA, in cooperation with the New York State Department of Health. Comments received from the public were responded to in a Responsiveness Summary, which is an attachment to the ROD.

The remedy, as described in the ROD, includes the dredging of as much as an estimated 2,653,000 cubic yards of contaminated sediments from the lake and the placement of an isolation



cap over an estimated 425 acres of the littoral zone (the portion of the lake in which water depths range from 0 to 30 feet). It also includes the placement of a thin-layer cap over an estimated 154 acres of the profundal zone (the portion of the lake in which water depths exceed 30 feet). The majority of the dredged materials will be placed in one or more Sediment Consolidation Areas (SCA) that will be constructed on one or more of the Honeywell Solvay wastebeds. However, the most highly contaminated materials will be treated and/or disposed at an off-site permitted landfill.

The estimated cost to implement the remedy is approximately \$451 million (based on cost estimates in the FS and ROD). This is comprised of the cost to construct the remedy (estimated to be \$414 million) and the average annual operation and maintenance cost (estimated at approximately \$3 million).

## **CONSENT DECREE**

In October 2006, NYSDEC, New York State Department of Law, and Honeywell reached an agreement on a Consent Decree that requires the company to conduct a cleanup of contaminated sediments in Onondaga Lake in accordance with the Onondaga Lake Bottom Subsite ROD that was issued by NYSDEC and EPA on July 1, 2005. The Consent Decree is a legal agreement which requires Honeywell to design and implement the cleanup plan. Attached to the Consent Decree is a Statement of Work (SOW) which addresses several technical issues associated with the design and construction of the remedy.

The proposed Consent Decree and two other documents, the draft ESD and the draft SCA siting evaluation (summarized below), were made available for public review and comment on October 12, 2006. Following review of all comments as documented in this Responsiveness Summary, the State has issued the final version of the ESD and approved the SCA siting evaluation without significant changes. The final versions of these documents can be found in the document repositories and on the NYSDEC website.

The Consent Decree also presents an updated schedule for design and construction. The project will include a five-year design process for all aspects of the remedial program. During this initial five year program, the water treatment facilities and the SCA will be constructed. This will be followed by in-lake construction activities (e.g., dredging and capping) which are expected to take four years to complete. Monitoring will continue throughout design and construction and following construction activities.

NYSDEC will continue to oversee Honeywell's implementation of the remedy. Technical documents will be reviewed and approved throughout the design and construction phases of the project to help ensure the effectiveness of the remedy. Additionally, it will remain a NYSDEC priority to continue the public outreach process. Meetings with interested parties, the public and the scientific community will continue with the purpose of fostering good communication, progress, and a project that benefits the entire community. Updates will also be provided through fact sheets and other documentation.

## **EXPLANATION OF SIGNIFICANT DIFFERENCES**

In October 2006, NYSDEC and EPA also issued for public comment a draft Explanation of Significant Differences (ESD) which described a change to a portion of the remedy required by the ROD in the southwest portion of the lake (the final ESD is attached to the Consent Decree). The change is necessary to ensure the stability of the adjacent causeway and is supported by recent,

more extensive sampling of the area which indicates that the pure chemical contamination is significantly less extensive than previously believed.

The ESD addresses only dredging required to recover pooled non-aqueous-phase liquids (NAPLs) in the Sediment Management Unit (SMU) 2 causeway area and a small adjacent area in SMU 1. The ESD does not affect any other dredging required in the ROD. The remedy modifications maintain the protectiveness of the selected remedy and comply with the federal and state requirements identified in the ROD. A Technical Support Document (Parsons, 2006a) is included with the ESD.

## **SCA SITING EVALUATION**

The ROD, issued by NYSDEC and EPA on July 1, 2005, includes dredging an estimated 2,653,000 cubic yards of contaminated sediment/waste from Onondaga Lake and placement of the majority of the dredged material in one or more Sediment Consolidation Areas (SCA) constructed on one or more of Honeywell's Solvay wastebeds. The SCA will be designed and built in accordance with state and federal requirements and guidance and will include the following:

- An impermeable liner beneath the sediment.
- A collection and treatment process for the water that is separated from the sediment.
- A protective cover over the sediment.

Solvay Wastebed B and Wastebeds 1-15 were evaluated as potential SCA locations. Wastebed B is along the southwestern shoreline of Onondaga Lake and Wastebeds 1-8 are north of the New York State Fairgrounds and I-690. Wastebeds 9-15 are located southwest of the Route 695 – I-690 Interchange.

All 16 wastebed locations were assessed based on potential impacts on the local community, accessibility, estimated capacity, current and potential future reuse opportunities, and geotechnical feasibility. The details of this assessment, which are presented in the Onondaga Lake SCA Siting Evaluation (Parsons, 2006b), are summarized below.

The assessment identifies Wastebed 13 as the preferred location for the Onondaga Lake Bottom Site SCA for the following reasons:

- Easily accessible by truck and sediment slurry piping along Ninemile Creek from Onondaga Lake.
- Sufficient capacity for lake sediments.
- Requires minimal or no increase to the perimeter dike height.
- Most recent wastebed constructed and expanded following stringent specifications and quality assurance/quality control procedures.
- Some or all of the natural vegetative visual barriers can remain around the site.

- Less construction time, traffic, and noise in local communities.
- Smallest potential for community disruptions.
- Potential opportunities for reuse and redevelopment following capping of the SCA.

Wastebeds B, 1-8, 9-11, 12, 14, and 15 were not recommended for the following reasons:

- Wastebed B and Wastebed 15 - These wastebeds do not have sufficient capacity for the estimated amount of dredged lake sediments.
- Wastebeds 1-8 - Their topography would not meet SCA construction requirements.
- Wastebeds 9-11 and 14 - These wastebeds have a slightly higher likelihood of potential community impacts due to their proximity to public facilities, such as golf courses, parks, and the State Fairgrounds.
- Wastebeds 9-11 - These wastebeds would require higher dikes and result in associated potential construction related impacts and the right-of-way for the power transmission lines poses construction challenges.
- Wastebed 14 - This wastebed is smaller in capacity than Wastebed 13.
- Wastebed 12 - This wastebed would require increasing its dike height, which would lengthen construction schedules and increase truck traffic on local roads.

NYSDEC and EPA agree with Honeywell's recommended selection of Wastebed 13 for the SCA included in the assessment. NYSDEC will oversee the design and construction of the SCA, the transport of the sediment from the lake bottom to the SCA, and the covering (capping) of the site. Inspections of the cap that is constructed on the SCA will be performed quarterly. NYSDEC is committed to working with the community and Honeywell on a plan for reuse of the land after completion of the project.

Throughout the project, the air will be monitored for any odors or emissions. If any odors or emissions occur, they will be controlled to minimize effects on the local community. No odors or emissions are expected once the SCA is covered (capped) after the cleanup is completed. The cap will be designed pursuant to applicable regulations and guidance and the sediment will be contained beneath the cap.

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## **SUMMARY OF PUBLIC COMMENTS**

During the public comment period, a total of twenty comment letters were received (mail/fax/or e-mail) and fifteen individuals provided oral comments during the public meeting. The majority of the comments were supportive.

Many comments that were received during this comment period were not specific to the Consent Decree, draft ESD, or draft SCA Siting Evaluation but instead related to individuals' thoughts or concerns regarding the remedy selected in the July 2005 Onondaga Lake ROD. These comments relate to matters outside the scope of the present comment period on the Consent Decree, the draft Explanation of Significant Difference (ESD), and the draft SCA Siting Evaluation.

Specifically, the selected remedy described in the ROD was chosen after an extensive review process by NYSDEC and EPA, including EPA's National Remedy Review Board, and after public comment periods spanning in excess of 120 days. The selected remedy is protective of public health and the environment. The present comment period provides for the opportunity for public comment on the terms and conditions under which Honeywell will implement the selected remedy, as modified by the ESD. The present comment period on the Consent Decree, the draft ESD, and the draft SCA Siting Evaluation is not a new opportunity to comment on the remedy itself, except within the context of the draft ESD or the draft SCA Siting Evaluation.

Notwithstanding these comments being outside the scope of the matters subject to this comment period (i.e. the terms and conditions under which Honeywell will implement the selected remedy, the draft ESD or the draft SCA Siting Evaluation), the NYSDEC provides responses in the Comment and Response Index (Attachment 1) as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake. The following list provides several examples of comments and questions received regarding the remedy:

- What will happen if the remedy fails?
- A baseline monitoring program should begin immediately.
- How will the success of the remedy be measured?
- Onondaga Lake should have educational signage at popular access points.
- The data used to develop the plan was inadequate.
- The remedy should establish a cold water fishery.
- The remedy should be protective of newly found endangered plant species.
- Will degradation of the barrier wall have a detrimental impact on the lake?
- The remedy should provide for plant free zones for boating.
- Underwater obstructions to navigation should be removed or marked.

With respect to comments received associated with the specific content of the proposed Consent Decree, and documents relating to the draft ESD and siting of the SCA, the following list provides several examples of individual comments or questions received:

- Public involvement in the remediation process is needed.
- Further information and clarification of the draft ESD is needed.
- Clarification of various issues in the proposed Consent Decree is needed.
- The draft ESD is a fundamental change of the ROD.
- With respect to the draft ESD, little effort was put into developing alternatives that would preserve lake surface area.
- With respect to the draft ESD, other alternatives for removing NAPL on the land side of barrier wall should have been evaluated.
- Honeywell's financial assurance requirements should be strengthened.
- Elevated levels of methylmercury may be discharged from the WTP.
- The mercury effluent limit of 0.2ug/L may need to be modified.
- The SCA should be placed in the lake or along the shoreline.
- The timing of the ROD is suspect and the settlement was politically motivated.

- The barrier wall should include a natural shoreline.

## LIST OF REFERENCES USED IN RESPONSIVENESS SUMMARY

Effler. 1996. Limnological and Engineering Analysis of a Polluted Urban Lake, Prelude to Environmental Management of Onondaga Lake, New York. S.W. Effler (ed). Springer-Verlag, New York, NY.

NYSDEC. 2004. Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site Proposed Plan. November 29.

NYSDEC. 2006. Proposed Consent Decree between the State of New York and Honeywell International Inc. for the Remedial Design and Remedial Action for the Onondaga Lake Bottom Subsite. Index No. 89-CV-815. October 2006

NYSDEC and USEPA. 2005. Record of Decision and Responsiveness Summary for the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site. July.

NYSDEC and USEPA. 2006. Explanation of Significant Differences for the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site. December 14, 2006.

Parsons. 2004. Onondaga Lake Feasibility Study Report. Draft Final. Prepared by Parsons, Liverpool, NY in association with Anchor Environmental and Exponent for Honeywell. November.

Parsons. 2006a. Onondaga Lake: Technical Support Document for Explanation of Significant Differences. Prepared by Parsons for Honeywell. August.

Parsons. 2006b. Onondaga Lake Sediment Consolidation Area Siting Evaluation. Prepared by Parsons for Honeywell. September.

Parsons and O'Brien & Gere. 2006. Onondaga Lake Pre-Design Investigation: Phase II Work Plan – Addendum 5 Water Treatability, Effluent Elutrient, Odors and Column Settling Testing. Prepared by Parsons and O'Brien & Gere for Honeywell. December 12, 2006.

TAMS. 2002a. Onondaga Lake Baseline Ecological Risk Assessment. Original document prepared by Exponent, Bellevue, Washington, for Honeywell, East Syracuse, New York. Revision prepared by TAMS, New York, New York and YEC, Valley Cottage, New York, for New York State Department of Environmental Conservation, Albany, New York. December.

TAMS. 2002b. Onondaga Lake Human Health Risk Assessment. Original document prepared by Exponent, Bellevue, Washington, for Honeywell, East Syracuse, New York. Revision prepared by TAMS, New York, New York and YEC, Valley Cottage, New York, for New York State Department of Environmental Conservation, Albany, New York. December.

TAMS. 2002c. Onondaga Lake Remedial Investigation. Original document prepared by Exponent, Bellevue, Washington, for Honeywell, East Syracuse, New York. Revision prepared by TAMS, New York, New York and YEC, Valley Cottage, New York, for New York State Department of Environmental Conservation, Albany, New York. December.

**RS Table 1 – Onondaga Lake Consent Decree, ESD, and SCA Siting Responsiveness  
Summary, Comment Directory**

Letter Code	Last Name	First Name	Affiliation	Date Submitted	Form Submitted	Individual Comments
<b>Onondaga Nation</b>						
N-1	Amato	Christopher A.	General Counsel for Onondaga Nation	11/13/06	Written	N-1.1 – N-1.6
N-2	Heath, Esq.	Joseph J.	General Counsel for Onondaga Nation	11/13/06	Written	N-2.1 – N-2.12
<b>Regional</b>						
R-1	Davis	Irwin L.	President, Metropolitan Development Association of Syracuse & Central New York Inc.	11/10/06	Written	R-1.1 – R-1.2
R-2	Pirro	Nicholas J.	County Executive, Onondaga County	11/9/06	Written	R-2.1 – R-2.11
<b>Local</b>						
L-1	Coogan	Mary Ann	Supervisor, Town of Camillus	11/9/06	Written	L-1.1 – L-1.3
L-2	Ward and Kochan	Marlene and Nicholas R.	Mayor and Village Trustee, Village of Liverpool	11/8/06	Written	L-2.1 – L-2.5
L-3	Warner	Deborah S.	Director of Government Affairs, Greater Syracuse Chamber of Commerce	11/10/06	Written	L-3.1
<b>Groups and Associations</b>						
G-1	Glance	Dereth	Program Director, Citizens Campaign for the Environment	11/13/06	Written	G-1.1 – G-1.6
G-2	Michalenko	Edward M.	President, Onondaga Environmental Institute	11/13/06	Written	G-2.1 – G-2.6
G-3	Monostory	Les	President, Onondaga County Federation of Sportsmen's Clubs	11/12/06	Written	G-3.1 – G-3.4
G-4	Plumley	Peter W.	Milton J. Rubenstein Museum of Science & Technology and Syracuse University	11/13/06	Written	G-4.1

**RS Table 1 – Onondaga Lake Consent Decree, ESD, and SCA Siting Responsiveness  
Summary, Comment Directory**

<b>Letter Code</b>	<b>Last Name</b>	<b>First Name</b>	<b>Affiliation</b>	<b>Date Submitted</b>	<b>Form Submitted</b>	<b>Individual Comments</b>
G-5	Sage	Samuel H.	President, Atlantic States Legal Foundation, Inc.	11/13/06	Written	G-5.1 – G-5.14
G-6	Sweet	Carol	President, Friends of Historic Onondaga Lake	11/8/06	Written	G-6.1
<b>Public Comments</b>						
P-1	Breuer	James V.		11/7/06	Written	P-1.1
P-2	Carr	Edna		10/19/06	E-mail	P-2.1
P-3	Francis	Joseph		10/20/06	E-mail	P-3.1
P-4	Harris	Wendy		11/13/06	Written	P-4.1 – P-4.4
P-5	Lovejoy	Donald		11/5/06	E-mail	P-5.1 – P-5.2
P-6	Rockcastle	Verne N.		10/20/06	E-mail	P-6.1
P-7	Walker	Bob		11/13/06	E-mail	P-7.1
<b>Oral Comments (from pages 28 through 70 of the 10/19/06 public meeting transcript)</b>						
O-1	Czaplicki	Bob	Supervisor, Town of Geddes	10/19/06	Spoken	O-1.1
O-2	Farrell	Jim	Onondaga County Legislator	10/19/06	Spoken	O-2.1
O-3	Freedman	Jeff	Onondaga Yacht Club	10/19/06	Spoken	O-3.1 – O-3.7
O-4	Pease	Bill	Onondaga Yacht Club	10/19/06	Spoken	O-4.1
O-5	Joyal	Thane	Onondaga Nation	10/19/06	Spoken	O-5.1 – O-5.4
O-6	Hammond	Susan		10/19/06	Spoken	O-6.1 – O-6.3
O-7	Mossotti	Sherri		10/19/06	Spoken	O-7.1
O-8	Campbell	Bryan		10/19/06	Spoken	O-8.1 – O-8.2
O-9	Cunningham	Erin		10/19/06	Spoken	O-9.1
O-10	Furlong, Ms.			10/19/06	Spoken	O-10.1
O-11	Andrews	Russ		10/19/06	Spoken	O-11.1



**RS Table 1 – Onondaga Lake Consent Decree, ESD, and SCA Siting Responsiveness  
Summary, Comment Directory**

<b>Letter Code</b>	<b>Last Name</b>	<b>First Name</b>	<b>Affiliation</b>	<b>Date Submitted</b>	<b>Form Submitted</b>	<b>Individual Comments</b>
O-12	Brown	Terry	O'Brien & Gere Engineers	10/19/06	Spoken	O-12.1 – O-12.2
O-13	Speer	Lindsay		10/19/06	Spoken	O-13.1 – O-13.3
O-14	O'Leary	Bob		10/19/06	Spoken	O-14.1 – O-14.2
O-15	Cleary-Hammarstedt	Casey		10/19/06	Spoken	O-15.1 – O-15.5

# **RESPONSIVENESS SUMMARY**

## **ATTACHMENT 1**

### **Comment and Response Index**

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
<b>Onondaga Nation Comments</b>			
Christopher A. Amato, General Counsel for Onondaga Nation	N-1.1	On behalf of the Onondaga Nation, Stratus Consulting states that the technical support document for the Explanation of Significant Differences (ESD) prepared by Parsons for Honeywell and the proposed ESD did not provide sufficient information to allow a complete evaluation of the new aspects of the remedy described in the proposed ESD. As a result, the Nation requested further information on the ESD in a letter addressed to EPA dated October 19, 2006. The EPA responded in a letter dated October 31, 2006. We have attached these letters so that they may become part of the administrative record for the Consent Decree.	NYSDEC adopts EPA's October 31, 2006 responses to the Nation's October 19, 2006 letter to EPA.

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-1.2	<p>The rationale that the proposed change to the remedy does not constitute a fundamental change because it represents a change affecting only 6% of the total volume of sediment to be dredged from the lake is valid if:</p> <p>1) the significantly lower volume of NAPLs determined in the Preliminary Design Investigation (PDI) and reported in the proposed ESD is accurate</p> <p>2) remedial design does not significantly alter other portions of the remedy for the rest of the Onondaga Lake Bottom subsite. In addition, accompanying technical reports summarizing the results of the PDI should be provided to the Nation.</p>	<p>The estimate of the pooled NAPL, and the corresponding volume of sediments to be dredged from the lake to address NAPL developed in the FS and used to support the ROD were based on a limited in-lake data set and the offshore extrapolation of the geometry and permeabilities of the stratigraphic units from the known onshore configurations and permeabilities of these units. The estimate of the pooled NAPL and the corresponding volume of sediments to be dredged from the lake to address NAPL identified in the proposed ESD is based on the collection and analysis of more than 65 sediment cores to depths ranging from 28 to 42 feet. Since the latter estimates were based on a more extensive investigation, analysis and observation of these sediment cores, they provided a better empirical basis for estimates of the volume and areal and vertical extent of NAPLs than the estimates developed for the ROD. Since the remedy still includes all of the major remedy components (as discussed in the response to Comment O-5.4) including dredging and capping, there has not been a fundamental change to the remedy selected in the ROD. As the remedial design and remedial action proceed, any significant or fundamental changes to the ROD remedy would need to be documented via an ESD or ROD amendment, respectively. A data summary report for the first phase of the PDI is under development. It will be furnished to the Onondaga Nation and will be placed in the document repositories as soon as it is available. In the interim, EPA sent to the Nation, via overnight mail on November 29, 2006, data compilations from the PDI. Also, see responses to Questions # 12, 15, 18, and 19 in the October 31, 2006 letter from EPA to the Onondaga Nation.</p>

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-1.3	<p>Onondaga Lake provides unique and important ecological and recreational services to the general public, and critically important cultural services to the Onondaga Nation. The proposed loss of roughly two acres of Onondaga Lake surface area is of particular concern to the Nation and the prevention of lake surface losses was identified as one of the key elements of the ROD. NYSDEC and EPA should allow changes to the ROD that permanently eliminate parts of the lake only as a last resort and only when public health and welfare cannot otherwise be protected. However, information provided to date suggests that little effort was put into developing and evaluating alternatives that would preserve the lake surface area, and that the new remedy was perhaps chosen based on other factors, such as ease of implementation and cost.</p>	<p>NYSDEC and EPA recognize the longstanding cultural and historical ties of the Onondaga Nation to Onondaga Lake as well as the uniqueness and importance of the lake to the general public. It is acknowledged that any remedy which would involve the filling in of a portion of the lake should only be implemented if the proposal is reasonable and necessary and would not endanger public safety, health and welfare. With respect to addressing pooled NAPLs in the littoral area of the lake adjacent to and near the causeway, the proposed modified remedy was determined to be protective of human health and the environment, implementable, and capable of meeting State and federal regulatory requirements. All alternatives which would include deep dredging (including the ROD remedy) are not implementable due to geotechnical stability concerns. While the proposed modification would include the loss of approximately two acres of aquatic habitat in the lake, the lost aquatic habitat would be replaced with a new aquatic habitat in an upland area adjacent to the lake. It should also be noted that while it is anticipated that the proposed modification could be implemented at less cost than the ROD remedy due to the reduction in volume of sediments to be dredged, any such cost savings have not been quantified. Cost increases attributable to the construction of the barrier wall farther into the lake waters; the construction, operation and maintenance of additional NAPL collection wells; the increased backfilling behind the barrier wall; and the mitigation (replacement) of the aquatic habitat that would be lost behind the barrier wall would offset, at least to some extent, any cost savings from reduced dredging volumes. Also, see responses to Questions # 4 and 8 in the October 31, 2006 letter.</p>



**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-1.4	<p>The ROD-selected remedy is far preferred over the new remedy presented in the proposed ESD because the ROD remedy involves the removal of NAPL from the site, while the latter is largely based on containment, with comparatively little NAPL removal through extraction wells. Because it leaves pooled NAPL in the subsurface, the new remedy described in the proposed ESD presents a higher risk of further exposure and contamination of the lake bottom. It is also surprising that other alternatives involving NAPL removal/destruction were not considered or evaluated further. These include recent developments of in-situ treatment methods such as enhanced biodegradation or the use of granular iron materials. The concern that methods may be unproven in the field (in-situ treatment methods were rejected for that reason in the FS report) is insufficient reason for rejection, particularly since pilot studies are being used in other parts of the ROD to test new treatment methods (e.g. oxygenation of the profundal zone) and the remedy in the proposed ESD includes so many negative aspects, including loss of lake area and retainment of NAPL in the subsurface.</p>	<p>As discussed in the draft ESD and the supporting technical documents, the ROD remedy is not implementable due to geotechnical stability concerns. The proposed modified remedy was determined to be protective of human health and the environment, implementable, and capable of meeting state and federal regulatory requirements. To the extent that NAPLs are not collected by the recovery wells, they would be isolated from the lake and contained by the subsurface barrier wall and groundwater collection system. The modified remedy would not present a higher risk of exposure to humans or ecological receptors or potential release of contamination to the lake. With respect to in-situ treatment methods to address NAPLs, NYSDEC and EPA are not aware of any contaminated sediment sites where such methods have been implemented to remediate NAPLs in sediments. A pilot study would need to be performed to assess the feasibility of in-situ treatment methods to remove or destroy NAPLs. However, the performance of a pilot project to assess in-situ treatment methods would delay the installation of the barrier wall and the containment of groundwater contamination from the upgradient Semet Residue Ponds and Willis Avenue Subsites. The expeditious containment of the contaminated groundwater from these subsites is essential to eliminate an ongoing source of contaminants to the lake and is also a prerequisite for the remediation of the Lake Bottom in SMU 1 and SMU 2. Monitoring will be performed to determine the effectiveness of the NAPL recovery wells and the barrier wall and groundwater collection system. If, based on the monitoring data, further actions are determined to be necessary (e.g., modification of recovery well system, potential use of in-situ treatment), they will be evaluated.</p>

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-1.5	The estimated volume of NAPL in the proposed ESD of 5,000 cy is significantly less than the 232,000 cy estimate in the ROD. The accuracy of the estimate is critical. Technical report(s) detailing the results of the PDI and other relevant studies performed by Honeywell in the area need to be provided to the Nation.	<p>As is discussed in the detailed response to Comment N-1.2, since the estimates in the proposed ESD were based on a more extensive investigation, the analysis and observation of these sediment cores provided a better empirical basis for estimates of the volume and areal and vertical extent of NAPLs than the estimates developed for the ROD.</p> <p>EPA has provided extensive information to the Nation regarding the draft ESD and other Onondaga Lake-related issues. This includes copies of various reports and work plans, as well as written responses (e.g., October 31, 2006 letter from George A. Shanahan of EPA to Christopher A. Amato of Dreyer Boyajian LLP; November 29, 2006 e-mail from Robert Nunes of EPA to Christopher A. Amato) to a number of questions posed by the Nation. Furthermore, the EPA and NYSDEC have met with the Nation on several occasions to discuss various issues associated with Onondaga Lake and several upland sites. With regard to technical report(s) detailing the results of the PDI and other relevant studies, a data summary report for the first phase of the PDI is under development and will be furnished to the Nation and placed in the document repositories as soon as it is available. In the interim, analytical data from the first phase of the PDI was provided to the Nation.</p>
	N-1.6	The commentor states that, "...many of the reports produced by Honeywell and its subcontractors have not been provided to the Nation. The Nation should have direct access to the full contents of all reports pertaining to the site so that a complete evaluation is practical."	Please see the response to Comment N-1.5.

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
Joseph J. Heath, General Counsel for Onondaga Nation	N-2.1	The State has failed to seriously consider or respond to issues that the Onondaga Nation has raised with respect to the remedy proposed in the ROD. The NYSDEC has disregarded the Onondaga Nation's legitimate, deeply held spiritual and cultural interests with respect to Onondaga Lake.	Contrary to that indicated in the comment, NYSDEC has not disregarded the Onondaga Nation's interests with respect to Onondaga Lake. Please see the response to Comment N-1.5.
	N-2.2	The commentor states that, "Although the proposed Consent Decree enumerates the steps taken by the State in order to ensure compliance with the court's schedule and the applicable statutory requirements, we note that the State and U.S. Environmental Protection Agency have used the court's schedule as an excuse to evade their responsibility to consult with and take into account the comments and concerns of the Onondaga Nation with respect to this matter."	Please see the responses to Comments N-2.1 and N-1.5.
	N-2.3	The commentor states that, "We urge the NYSDEC to reevaluate its position with respect to the Nation prior to submitting its final consent decree implementing the ROD to Judge Scullin for his approval. As you know, Judge Scullin may not approve this document if he determines that it is not in the public interest and consistent with the [National Oil and Hazardous Substances Pollution Contingency Plan (NCP)]."	The State finds the Consent Decree to be in the public interest, as is documented in Paragraph 17 of the Consent Decree. The State also finds the remedy to have been chosen in accordance with the NCP, as is stated in the Declaration of the ROD, which is signed by both NYSDEC and EPA. Please also see the response to Comment G-2.1.



**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-2.4	The commentor states that, "At a minimum, as discussed in detail below, we urge New York State to require the defendant Honeywell International ("Honeywell") to provide copies of all documents produced under this consent decree to both the U.S. Environmental Protection Agency and to the Onondaga Nation, as a means of improving communication and facilitating consultation with the Nation."	There is pending litigation between Honeywell and the State of New York. NYSDEC cannot allow a blanket release to the Onondaga Nation of any and all documents that may be generated internally or received from Honeywell that are or may be relevant to the Consent Decree. As lead agency at the Lake Bottom Subsite, NYSDEC provides copies of relevant documents to EPA on a continuing basis. Honeywell provides copies of submissions to EPA pursuant to the terms of the Consent Decree. EPA is providing the Onondaga Nation with quarterly updates and is sharing documents with the Nation concerning the Onondaga Lake subsites according to a specified protocol. NYSDEC facilitates EPA efforts to do so.
	N-2.5	The commentor states that, "There is no credible reason for New York State to defer the requirement that Honeywell International provide financial assurance for the cleanup. To wait until the State, by some unspecified mechanism, divines that financial instability threatens Honeywell's ability to complete the actions required by the consent decree is inconsistent with CERCLA and the [NCP]. The time to assure financial stability is present. Rather than making the bald assertion that the State "has no reason to doubt" that Honeywell has the resources to complete the cleanup, the consent decree should state, if true, that Honeywell meets the financial test set forth at 40 CFR 264.143(f), that Honeywell will evaluate its financial situation quarterly and shall certify to the State that it continues to meet such test, or, if it cannot so certify, shall immediately secure financial assurance in one of the listed forms, consistent with the requirements of 40 CFR 264.143."	Please see the response to Comment R-2.4.

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
Comment and Response Index**

Name/Agency	Comment Code	Comment Summary	Response
	N-2.6	The commentor states that, "We note that paragraph 84 [of] the proposed consent decree requires that copies of documents subject to State approval be submitted to the document repositories and to this office. The Onondaga Nation recognizes the importance of its role as a consulting party with respect to Onondaga Lake pursuant to both CERCLA and §106 of the National Historic Preservation Act. Therefore we request, as an aid to consultation and effective participation, that this office be included in the list contained in paragraph 82 rather than the paragraph 84 list so that we may timely be advised of significant issues related to the cleanup."	Paragraph 82 governs Honeywell's obligations to provide specified numbers of copies of its submissions to the State (a party to the pending litigation), and to EPA (the agency responsible for the implementation of CERCLA and a cosigner of the ROD for the Onondaga Lake Bottom subsite). Pursuant to paragraph 84 of the Consent Decree, Honeywell will, provide approved documents generated pursuant to the Consent Decree directly to the Onondaga Nation. EPA is also providing the Onondaga Nation with quarterly updates and is sharing documents according to a specified protocol.

**Onondaga Lake Consent Decree, ESD, and SCA Siting Report Responsiveness Summary  
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Name/Agency	Comment Code	Comment Summary	Response
	N-2.7	<p>The commentor states that, "We do not understand why the penalties stipulated in paragraph 56 do not escalate to the statutory maximum in the event of extreme delays in performance, for example for noncompliance for periods exceeding 45 days. Noncompliance of this magnitude would be too serious to warrant anything less."</p>	<p>NYSDEC's Superfund settlement documents tend to address penalties in one of two ways. Some consent orders or consent decrees may be silent as to the amount of penalties to be imposed per day of a continuing violation. If so, then, if a violation of the settlement document occurs, it may be left to an administrative or civil court judge to review evidence and issue a finding as to the per day penalty amount to be imposed, which amount may be anything up to the statutory maximum. Such findings are issued with the delays, burdens, costs and uncertain outcomes that may be associated with litigation. Other consent decrees include an agreement or "stipulation" to a per day penalty amount that is less than the statutory maximum but which is automatically imposed without the need for recourse to the courts before a per day penalty amount is determined. In paragraph 56 of the Consent Decree, Honeywell and the State of New York have agreed to stipulated penalties.</p> <p>Pursuant to the terms of the Consent Decree, if a period of violation lasts 30 days, the stipulated penalty would amount to \$90,000. Thereafter, stipulated penalties would continue to increase at a rate of \$10,000 per day. Should a violation continue for 45 days, for example, the stipulated penalty would be \$240,000. Should a violation continue for four months, the penalty would reach or exceed \$1 million. The total penalty would be due within 15 days of the State's notification to Honeywell of the violation. Honeywell's failure to pay would compound the penalty with 9% interest. The stipulated penalties in the Consent Decree are agreed to in advance, would begin to accrue immediately, and would be payable by Honeywell with a relative minimum of procedural delay. This allows resources to be focused on resolving the violation itself rather than on first spending an indeterminate amount of time arriving at a per day penalty dollar amount to be imposed.</p>



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Name/Agency	Comment Code	Comment Summary	Response
	N-2.8	<p>The commentor states that, "It is critical to delete the parenthetical "(including prohibitively severe or extraordinary weather conditions which materially interfere with implementation of the Remedial Program)". This phrase obscures and makes unclear what is meant by an "event beyond the control of Honeywell or its agents in carrying out Honeywell's obligations under this Consent Decree which cannot be overcome by their due diligence" and suggests that weather is in some way subject to a lesser standard than "due diligence." Who decides what is prohibitively severe or extraordinary? What is material interference as opposed to immaterial interference?"</p>	<p>Approved investigation and remedial work plans may include schedules that require year-round work in the field. Schedules approved pursuant to administrative consent orders have required Honeywell to continue field activities, depending on the specific facts of the project, at various Onondaga Lake subsites during the winter. However, in the Syracuse area, there are times when severe weather events may cause the reasonably prudent person to stop work in the field, despite contractors having been retained for a pre-determined time period, and despite any increased costs to the responsible party that may be associated with such a delay. In the event of such severe weather events, this exception in Paragraph 57 of the Force Majeure provision in the Consent Decree acknowledges that it is not the intention of the State of New York to penalize Honeywell (or any responsible party) for its diligent efforts that are, nonetheless, temporarily thwarted by severe weather that makes it unreasonable for its staff and contractors to continue their work. Generally speaking, this type of delay tends to be short-lived. It is specific to a particular weather event, rather than to general seasonal conditions, which are taken into account when the original work plan schedule is developed and approved by NYSDEC in the first instance.</p> <p>It is Honeywell's obligation to notify the State should it find that severe weather conditions warrant a delay. Then, the State must also agree and approve Honeywell's judgment call. If the State does not agree, no delay in the relevant work schedule is approved and Honeywell is in violation of the Consent Decree unless the company both timely initiates the dispute resolution process and prevails in it. Even if Honeywell were to prevail, it would only be entitled to an extension of time that may not exceed the period reasonably attributed to the severe weather event.</p>

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	N-2.9	The commentator states that, "... it is critical that Honeywell also prepare a citizen participation plan that contains clear guidelines for incorporating citizen input into remedial design and monitoring plans."	The Consent Decree (at paragraph 29.H) requires Honeywell to prepare a "citizen participation plan which incorporates appropriate activities outlined in the DEC's publication, Citizen Participation in New York's Hazardous Waste Site Remediation Program -- A Guidebook, dated June, 1998, and any subsequent revisions thereto, and 6 NYCRR Part 375." Under the Consent Decree, this plan will be subject to NYSDEC review and approval. It will address various issues including the manner in which NYSDEC will involve the public and various stakeholders during the design and construction phases of the project.

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	N-2.10	<p>In light of the critical importance of monitoring not only to the remedial design process, but to the ultimate ability to ascertain attainment of the remediation, the vagueness of the Consent Decree text leaves room for multiple interpretations which could lead to problems with enforceability. What kind of needs are to be monitored? Who decides what these "needs" are? What does it mean to "integrate" needs? What standards apply to the selection of monitoring approaches? For how long "subsequent" to implementation must monitoring continue? Who will decide?</p> <p>The lack of clearly articulated goals is the most serious flaw in the ROD. To the extent that the effectiveness of the remedy is to be ascertained in any meaningful way, pre-implementation monitoring of relevant parameters, including food chain monitoring of mercury and other toxic compounds should be included as a substantial component of the remedial design. The Consent Decree language should be revised to be more specific about the role that monitoring is to play in the remedial design process.</p>	<p>The Consent Decree was not intended to provide specific details regarding the monitoring program. Instead, the Consent Decree text (para 29.B.vi) refers to the development during remedial design, of a program to monitor the effectiveness of the remedy. The monitoring program will address the various monitoring aspects associated with the lake remedy both during and following remedy implementation. The monitoring program will include the necessary monitoring components ("integrate needs") both on-site and off-site. Honeywell will need to develop a monitoring program that is acceptable to NYSDEC. Monitoring will be performed as long as is necessary (as determined by NYSDEC and EPA) to ensure the continued effectiveness of the remedy. Please also see the response to Comment R-2.2.</p> <p>In regard to remedial goals, the selected remedy addresses all areas of the lake where the surface sediments exceed a mean probable effect concentration quotient (PECQ) of 1 or a mercury PEC of 2.2 milligrams per kilogram (mg/kg). The selected remedy will also attain a 0.8 mg/kg bioaccumulation-based sediment quality value (BSQV) for mercury on an area-wide basis for the lake and for other applicable areas of the lake to be determined during the remedial design. The selected remedy is also intended to achieve lakewide fish tissue mercury concentrations ranging from 0.14 mg/kg (which is for protection of ecological receptors) to 0.3 mg/kg (which is based on EPA's methylmercury National Recommended Water Quality criterion for the protection of human health for the consumption of organisms).</p> <p>As part of remedial design, an extensive baseline (pre-implementation) monitoring program will be developed and implemented. The baseline monitoring work plan will address the scope of monitoring (media to be sampled and analyses to be performed) and the means by which the monitoring data will be interpreted.</p>



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	N-2.11	The commentor states that, "Paragraph 24 contains several references to "the Site" which is not elsewhere defined in this Consent Decree. In subparagraph D, for example, the Remedial Design Work Plan is required to include "a plan to secure physical security and posting of the Site." Which site is referred to? The Onondaga Lake Superfund Site? The Lake Bottom Subsite as referenced in paragraph 4? Subparagraphs E and F are similarly vague, and therefore the enforceability of these provisions is doubtful. This language should be revised."	The Onondaga Lake Bottom subsite is defined as the "Site" in paragraph 21.A.
	N-2.12	<p>The commentor states that, "The Onondaga Nation continues to oppose the implementation of the remedy contained in the ROD, which is to be memorialized by this proposed Consent Decree. The plan itself, and thereby the Consent Decree are together inadequate. It is inappropriate for the NYSDEC to sanction a plan that will leave dangerous, carcinogenic, and highly mobile chemicals and heavy metals in Onondaga Lake.</p> <p>The levels of these dangerous and carcinogenic toxins which will be left if this Consent Decree is entered will exceed the agency's own "safe" levels. In the final analysis, the Lake will remain a Superfund site after this remedial action. This plan is not in the public interest, nor is it consistent with the NCP. The consent decree should not be entered."</p>	<p>This comment (as well as several other comments addressed in this Responsiveness Summary) relates to matters (i.e., remedy selection) outside the scope of the present comment period on the proposed Consent Decree, draft ESD, and Siting Evaluation for the Sediment Consolidation Area (SCA). Please see the section entitled "Summary of Public Comments" of the Responsiveness Summary for more information. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>Please see response to Comment O-5.2.</p>

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<b>Regional Comments</b>			
Irwin L. Davis, President, Metropolitan Development Association of Syracuse & Central New York Inc.	R-1.1	The commentor supports the plan.	Comment noted.
	R-1.2	The plan should be implemented now, with no further delays or studies.	NYSDEC and Honeywell are pursuing the implementation of the remedy aggressively. As is typical for Superfund site projects, once a remedy has been selected, additional pre-design investigation information is required to fully implement the design. The Statement of Work contained in the Consent Decree indicates that five years will be required to collect these additional data and complete the design, as well as to construct the sediment consolidation area (SCA) and associated water (supernatant) treatment plant. NYSDEC and Honeywell are already very actively involved in the pre-design process, with Honeywell having collected many design-related samples since the ROD was released. In addition, some of the ancillary construction projects (at the upland sites) that are required to be in place before the complete implementation of the Lake Bottom Subsite remedy either are or will be soon underway. The remediation of the LCP Bridge Street site is nearing completion and the installation of the barrier wall and associated containment system along the lake shoreline has already begun. Construction and performance testing of the treatment plant that will be used to treat the groundwater collected behind the barrier wall along the lake shore have been completed.
Nicholas J. Pirro, County Executive, Onondaga County	R-2.1	The commentor supports the plan.	Comment noted.



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Name/Agency	Comment Code	Comment Summary	Response
	R-2.2	It is essential that Onondaga County continue to play an integral role in the review and evaluation of critical documents that will guide the further development and implementation of this effort, such as the Remedial Design Work Plan and Remedial Design.	<p>NYSDEC conducted an extensive public outreach program prior to the selection of the Lake Bottom remedy by NYSDEC and EPA. This included public meetings, public availability sessions, meetings with various stakeholders (including Onondaga County), and the solicitation of public comment regarding the proposed remedy. More recently, NYSDEC held a public meeting and public availability session and solicited public comment regarding the proposed Consent Decree, the draft ESD, and the SCA Siting Fact Sheet.</p> <p>NYSDEC will continue to conduct an extensive public outreach program throughout the remedial design and construction phases. These activities are anticipated to include the holding of public meetings and the distribution of fact sheets, etc., on a periodic basis, as well as at key stages of the project, such as during the design of the SCA. This will also include meetings with various stakeholders, including Onondaga County. The objective of the outreach program will be to update the public and stakeholders on the project status, as well as to solicit public comment.</p> <p>As part of public outreach, final documents will be placed in the document repositories and made available for public review once they are available. Please also see the response to Comment R-2.7.</p>

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Name/Agency	Comment Code	Comment Summary	Response
	R-2.3	<p>The commentor states that, "The Consent Decree refers to a "schedule" that will be developed as part of the Remedial Design and spells out stipulated penalties that can be imposed if whatever schedule is developed is not met. Yet the Consent Decree does not require any major or minor milestones around which penalties can be imposed. Absent a requirement for milestones in the Consent Decree, it is not clear to the County how the State can require milestones and associated stipulated penalties to ensure that implementation of the ROD will proceed as anticipated. This appears to be a weak point in the Consent Decree."</p>	<p>The Consent Decree requires Honeywell to submit various detailed schedules for approval. For example, Paragraph 24 of the Consent Decree requires Honeywell's Remedial Design Work Plan to include a schedule for the performance of design activities and the submission of design reports, and Paragraph 31 requires remedial construction activities to be done in accordance with the approved remedial design (including the schedule).</p> <p>Pursuant to Paragraphs 40-43 of the Consent Decree, NYSDEC will review and comment on each of these draft schedules. Honeywell must then revise each schedule according to the comments and resubmit it to NYSDEC for a second review and possible approval. It is during this review and comment process that major and minor milestones are developed, discussed in detail between the parties and, if necessary, required by NYSDEC's comments to be made more aggressive. Failure to submit an approvable revised schedule would constitute a violation of the Consent Decree. Should a schedule be approved, Paragraphs 26 and 31 of the Consent Decree require Honeywell to comply with it. Paragraphs 55-56 indicate that any failure to comply with the Consent Decree, which would include the failure to comply with an approved schedule, may be a violation of the Consent Decree that is subject to stipulated penalties.</p>

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	R-2.4	The commentor states that, "In light of well documented recent history of problematic disclosure statements, the financial assurance provisions of the proposed Consent Decree would seem to afford little actual security that the required funds to implement, monitor and repair or replace remedial elements if and when necessary will be available. While there is no reason to question the integrity of Honeywell's financial disclosures and current financial strength, it would seem prudent to insist on obtaining clear evidence and disclosure of the actual plans and mechanisms for financing this substantial obligation. The bottom line with respect to this concern is that the State must provide absolute assurance that responsibility for completion, repair or replacement of the remedies called for in the ROD do not fall back on the taxpayers of Onondaga County."	The requirements of Paragraphs 68-73 of the Consent Decree require Honeywell to provide the State with an annual reporting of its financial status and to provide specific financial assurance in the event the State determines that Honeywell is unable to complete the Remedial Program. It should be noted that financial assurance is not routinely required in the context of state cleanup orders, but was considered and included in this Consent Decree in response to public comment on the ROD. The State believes that the provisions of the Consent Decree provide adequate assurances for the completion of the remedial program. Further, should Honeywell fail to maintain adequate funds to complete the cleanup, the state and/or federal Superfunds may be drawn upon to complete the cleanup.
	R-2.5	The commentor states that, "The County notes that Natural Resource Damages (NRDs) are not addressed as part of the Consent Decree. Please explain the relationship between the Consent Decree and NRDs."	The complaint filed in New York federal district court by the State of New York against Honeywell in 1989 commenced a lawsuit that is pending. That complaint asserts numerous claims, including a claim for natural resources damages under the federal Superfund law, CERCLA. The Consent Decree that is currently the subject of public comment seeks to resolve a different claim of New York State stemming from the same complaint. The claim for natural resources damages is not resolved by the pending Consent Decree.



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	R-2.6	What will happen under a worst-case scenario (i.e., the remedy fails)? How can or will the State pursue further remedial action with Honeywell?	Post-remediation monitoring and maintenance of the cap and other components of the remedy will ensure that the remedy will not fail. In addition, as is noted in the ROD on page 81, because this remedy would result in contaminants remaining on site above levels that allow for unlimited use and unrestricted exposure to site media, CERCLA requires that the site be reviewed at least once every five years. The five-year review will formally evaluate the results from monitoring programs established as part of this remedy to ensure that the remedy remains protective of human health and the environment. Based on these reviews, it is possible that NYSDEC and EPA could pursue further remedial action with Honeywell, which would be addressed through a modification of the ROD and/or the Consent Decree.
	R-2.7	Onondaga County should be included in the list of document recipients noted in the Consent Decree.	The interests of stakeholders, including Onondaga County, will be addressed through the Citizen Participation Program.
	R-2.8	The commentor states that, "It is unclear to the County why there are no provisions in the Consent Decree for Honeywell to pay the cost of a dedicated State Monitor or Monitors to track progress and provide critical review of document submittals..." and "Why are there no provisions for State Monitors in the Consent Decree?"	Pursuant to the Consent Decree, NYSDEC staff will oversee Honeywell's implementation of the remedial program for the Onondaga Lake Bottom Site. As part of this oversight, NYSDEC will provide field oversight, review and comment on the various reports to be generated, and provide other project management duties. The Consent Decree requires Honeywell to reimburse the State for all response costs incurred by the State related to the Site. While this will not necessarily involve the use of state monitors, it does ensure that the State will be reimbursed for all costs incurred while overseeing this important project.
	R-2.9	The commentor states: ".....the WTP facility has the potential to encounter elevated concentrations of mercury containing a significantly higher percentage of methyl mercury. Depending on the actual discharge volumes and concentrations, the methyl mercury fraction could represent a very large methyl mercury point source."	NYSDEC shares the concern that significant levels of mercury (including methyl mercury) may be encountered at the wastewater treatment plant (WTP). The WTP will be designed to meet discharge limits issued by NYSDEC for this facility.

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	R-2.10	<p>The commentor states that, "In order to enable any future modification of the proposed mercury related permit effluent limit for the WTP to be addressed through the modification provisions of paragraphs 36 and 37 of the Proposed Decree the NYSDEC should ensure that Honeywell is fully aware that the facility may not be subject to a fixed limit of 0.2 µg/l (200 ppt) for the entire life of the facility, and that the State reserves its right to modify that limit if circumstances warrant such a modification.</p> <p>The only way to be certain whether circumstances in fact warrant such a modification would be to explicitly require low level mercury and methylmercury monitoring of the Honeywell WTP."</p>	<p>The Department of Environmental Conservation has the responsibility to establish discharge limits (which meet the substantive requirements of a SPDES permit) for remediation work conducted pursuant to Superfund orders. The numbers are determined using applicable law, regulation and guidance. Site specific limitations are established where appropriate. The selected discharge limit for mercury of 200 ng/l takes all of these into consideration.</p> <p>Limits are established through regulation to be protective of public health and the environment. The previous limit applied to mercury discharges on a state wide basis was 800 ng/l since that was the lowest level that could be measured accurately using the accepted USEPA Method 245. The water quality-based effluent limit (WQBEL) for mercury is 0.7 ng/l. However, after performing a rigorous review for the statewide limit, NYSDEC determined that 0.7ng/l is not a reasonable or feasible discharge level for mercury with currently available technology.</p> <p>6NYCRR Part 750-1.11(a) identifies the use of Best Available Technology (BAT) and Best Professional Judgment (BPJ), consistent with CWA Section 301 and 40 CFR, in SPDES permit development. The development and implementation of the 200 ng/l limit was based on these methodologies and is consistent with the manner in which the Department is currently implementing mercury monitoring requirements at industries and remediation sites across the State. This limit is attainable with current technology.</p> <p>NYSDEC's review of Best Available Technology indicates that conformity to the 0.7 ng/l standard is inappropriate because it is technically impractical. The discharge of 6 million gallons per day of water from the hydraulic dredging operation can not be reasonably treated to that level. The wastewater will be variable in nature as to the particular types of contaminants and their concentrations. To achieve the maximum removals of mercury would generally require a highly consistent influent and much lower volumes.</p>

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	R-2.10 (cont.)		<p>Applying a limit of 200 ng/l, and using USEPA method 1631 to assess compliance with this limit, will allow for development and implementation of an advanced treatment system that can be reasonably operated and maintained to meet the discharge criteria. This limit is consistent with the limits being applied to other mercury discharges across New York State, including the Metropolitan Sewage Treatment Plant and the GE Hudson River cleanup. Note that the Statement of Work, which is attached to the Consent Decree, provides for a fixed discharge limit for mercury of 0.2 ug/l.</p>

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	R-2.11	<p>A baseline monitoring program should begin immediately .</p> <p>The development of the post-construction monitoring program must involve the County and other appropriate stakeholders.</p>	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake. We agree that a baseline monitoring program should be developed and implemented as soon as possible. It is likely that portions of the pre-design investigation will result in the collection of data that is applicable to the baseline monitoring program. Please also see the responses to Comments N-2.9 and R-2.2.</p>



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<b>Local Comments</b>			
Mary Ann Coogan, Supervisor, Town of Camillus	L-1.1	The Town of Camillus believes that the SCA should be placed in the lake or along the lakeshore.	NYSDEC acknowledges that the Town of Camillus had previously made the comment that the SCA should be placed in the lake or along the lakeshore. As was noted in the ROD's Responsiveness Summary*, the final location for the SCA had not been determined at that time. As is stated in the ROD, potential SCA locations included Wastebeds 1 through 8, Wastebeds 9 through 11, and Wastebeds 12 through 15. For cost-estimating purposes in the FS report, it was assumed that an SCA would be constructed on one of the Solvay wastebeds (e.g., Wastebed 13). Wastebed 13 could accommodate a large sediment volume (potentially 2,400,000 cy or more, depending on final elevation), and its relatively remote location would minimize disruption to and impacts on the community during construction and operation of an SCA. However, the ROD stated that the actual Solvay wastebed location(s) on which the SCA(s) would be constructed would be determined during remedial design and be based on an evaluation of the potential impacts on the local community, geotechnical stability of the wastebeds, SCA construction requirements, wastebed size, the means for transporting dredged materials to the SCA, costs, etc. This assessment and these considerations were documented in the Onondaga Lake SCA Siting Evaluation Report which was offered for public comment during the public comment period which ran from October 12, 2006 through November 13, 2006. This report recommended that Wastebed 13 be utilized as the site for the SCA. NYSDEC and EPA agree with this recommendation.
	L-1.2	The Town of Camillus is prepared to play an active role in the design review phase so that our residents can be assured of no environmental impacts on their lives from this project.	Please see the responses to Comments N-2.9 and R-2.2.



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	L-1.3	The commentor states that, "...the westerly extent of the SCA should be set back from the westerly berm of Wastebed 13 by at least 500 feet to provide a visual and noise buffer, and to provide a contingency response area in the event of a spill, leak, or problem with the SCA."	The SCA will be designed and built in accordance with state and federal requirements. Incorporated into the design of the project will be engineering controls and work practices to significantly minimize any odor associated with the cleanup. There also will be measures to minimize possible effects on area residents from noise, lighting, traffic, and/or visual impacts. A full range of options to minimize these potential impacts will be evaluated as part of the design process, including evaluation of the requested setback for the berms. NYSDEC understands that the design, operation and monitoring of the SCA is a significant issue for the local community. As part of the design process, NYSDEC will meet with the local community to discuss these issues and to ensure that everyone's questions are addressed during the SCA design.
Marlene Ward and Nicholas R. Kochan, Mayor and Village Trustee, Village of Liverpool	L-2.1	The Village of Liverpool supports the plan.	Comment noted.

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	L-2.2	How will NYSDEC evaluate the success of the remediation effort in the short and long terms?	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>The benchmarks against which the remediation will be measured are reflected in the remedial action objectives (RAOs) and preliminary remediation goals (PRGs) discussed on pages 34 and 35 of the ROD.</p> <p>RAOs are specific goals to protect human health and the environment. These objectives are based on available information and standards, such as applicable or relevant and appropriate requirements (ARARs), to-be-considered guidance, and site-specific risk-based levels. The RAOs for Onondaga Lake were based on site-specific information, including the nature and extent of chemical parameters of interest (CPOIs), the transport and fate of mercury and other CPOIs, and the baseline human health and ecological risk assessments. The RAOs were developed in the RI report as goals for controlling CPOIs within the lake and protecting human health and the environment.</p> <p>In order to achieve these RAOs, PRGs were established to provide additional information/goals with which remedial alternatives could be developed and selected. Onondaga Lake contains three primary media that have been impacted by CPOIs: sediments, biological tissue, and surface water. As is discussed in the ROD, PRGs were developed for each of these three media.</p>

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	L-2.2 (cont.)		<p>In order to assess the attainment of these goals, both the direct implementation of the remedy (e.g., functioning of the water treatment plant, thickness of the cap) and the expected improvements from the remedy (e.g., lack of methylmercury in the water column, reduced mercury concentrations in fish) will need to be monitored. As is discussed in the ROD, part of the selected remedy is the implementation of a long-term operation, maintenance and monitoring program to monitor and maintain the effectiveness of the remedy.</p> <p>The long-term monitoring will be performed to assess the effectiveness of the remedy in achieving the RAOs and PRGs and to ensure that the remedial technologies are performing as specified in the remedial design. The program will be designed to monitor and evaluate the effectiveness of the various remedy components including containment at the SCA, water (supernatant) treatment processes, isolation capping, thin-layer capping, effectiveness of the groundwater control structures, oxygenation, monitored natural recovery, and habitat reestablishment and enhancement. Types of monitoring which will likely be employed include sampling within the lake before, during, and following remediation, including sampling of biological tissue (e.g., fish, invertebrates), measurements of the effects on the environment (e.g., toxicity testing, community analysis), and sampling of surface water and sediments; sampling of the aquatic cap to determine its integrity (chemically and structurally); sampling of the SCA to determine its integrity (chemically and structurally); and sampling of the discharge from the treatment plant to assess conformance with the discharge limits.</p>
	L-2.3	The commentator asks, "What is the revised timetable for remediation?"	As is indicated in the Statement of Work, the project will include an estimated five-year design process for all aspects of the remedial program. During this initial five year program, the water treatment facilities and the SCA will be constructed. This will be followed by in-lake construction activities (e.g., dredging and capping) which are expected to take four years to complete.



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	L-2.4	What is the long-term plan to ensure the performance of the technical systems, including the filtration systems?	Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.  See the response to Comment L-2.2 above.
	L-2.5	The commentor states that, "We strongly recommend the creation of a public oversight forum or board to make sure that the Lake is restored to the best possible level achievable."	Please see the response to Comment R-2.2.  The possibility of establishing a group (e.g., board, citizen advisory council [CAC], etc) to provide input during the design and construction phases of the project will be evaluated by NYSDEC and EPA during the early stages of the remedial design.
Deborah S. Warner, Director of Government Affairs, Greater Syracuse Chamber of Commerce	L-3.1	The commentor, on behalf of the Greater Syracuse Chamber of Commerce, supports the plan and urges its swift enactment.	Comment noted. See also the response to Comment R-1.2 above.
<b>Group and Association Comments</b>			
Dereth Glance, Program Director, Citizens Campaign for the Environment (CCE)	G-1.1	CCE recommends that the Department and the Court grant an extension to the public comment period.	After considering the request that an extension to the public comment period be granted, NYSDEC determined that an extension was not necessary. In reaching this decision, NYSDEC noted that CCE was the only party that requested an extension. Further, it is noted that CCE was able to provide its comments in a timely manner.
	G-1.2	Ensure that the lake bottom remediation plan is transparent and provides for citizen participation. Establish a CAC to provide guidance, and support to Onondaga Lake remediation efforts.	Please see the response to Comment R-2.2. The possibility of establishing a group (e.g., board, CAC, etc.) to provide input during the design and construction phases of the project will be evaluated by NYSDEC and EPA during the early stages of the remedial design.

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	G-1.3	The Department should expand upon the Onondaga Lake subsite matrix (that was included in the Responsiveness Summary* for the ROD for Onondaga Lake) to include additional details and resources for more information.	The matrix for the Onondaga Lake Superfund Site addresses the various subsites. As the Onondaga Lake and upland sites progress, NYSDEC will periodically update the matrix to assist the public in understanding the progress of the various remedial projects associated with Onondaga Lake and the various upland sites. NYSDEC will consider adding other types of information (as appropriate) to the matrix as work proceeds on the various sites.
	G-1.4	Onondaga Lake should have educational signage in popular access points.	Although NYSDEC cannot require Honeywell to fund the creation and installation of educational signage (e.g., history, current progress, fish consumption advisories, and resources for more information) around Onondaga Lake, NYSDEC understands the benefits of such signage. Therefore, NYSDEC will discuss with Honeywell the possibility of the creation and installation of educational signs around the lake.
	G-1.5	The commentor states that, "In the case of any dispute over payments to the State or for the remediation effort which is raised by Honeywell, should require Honeywell to deposit the disputed figures in an escrow account until the dispute is resolved [emphasis omitted]."	<p>The State will incur administrative costs during the course of its oversight of Honeywell's performance of its obligations under the Consent Decree. The State will submit invoices to Honeywell periodically for these administrative costs. According to the terms of the Consent Decree, Honeywell will have 30 days to pay these invoices. Pursuant to Paragraph 67, Honeywell may contest an invoice issued by the State and may withhold payment of the disputed portion of the invoiced amount until the dispute is resolved. The Consent Decree provides for the resolution of such a dispute as well as payment on an expedited basis.</p> <p>The projected cost to Honeywell of the Lake Bottom remedy stems from Honeywell's own cost estimates. Honeywell's opportunity to dispute any aspect of the ROD has passed.</p>
	G-1.6	The commentor states that, "If a trust fund is created, the trust fund should be administered by the State of New York and expended solely for the benefit of Onondaga Lake [emphasis omitted]."	Whether administered by Honeywell, its agents, or by the State of New York, a trust fund that may be established pursuant to Paragraph 69.C of the Consent Decree would be expended for the completion of the remedial program for the Onondaga Lake Bottom subsite.

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Edward M. Michalenko, President, Onondaga Environmental Institute	G-2.1	The timing of the ROD and Consent Decree is suspect and leaves the public with the general perception that the settlement between the State and Honeywell was politically motivated. It appears the uncertainty associated with the potentiality of the State adopting a more hard-line position toward environmental regulation under a new governor and administration may have provided both parties impetus to settle.	The Consent Decree is not a product of a conspiracy, political machinations, complicity relative to the timing of matters related to the Syracuse Metropolitan Sewage Treatment Facility, or an economic aid engine. Rather, it is a reasonable and reasoned resolution to the matters addressed by the Consent Decree. The purpose of CERCLA and the State Superfund is to encourage prompt and effective responses to hazardous waste releases and to impose liability on responsible parties. After considerable arm's length negotiations, the proposed Consent Decree was agreed upon by the State of New York and Honeywell. The Consent Decree contains multitudinous provisions, adopts the remedy selected by the 2005 ROD (the \$451 million cost of which was a component of the public process on the selection of that ROD in 2005), and sets forth stipulated penalties should Honeywell fail to perform the required remediation. In addition to performance of remediation, the Consent Decree requires Honeywell to pay the State's response costs. The Consent Decree will allow remediation to go forward after many years of investigation without delay. The Consent Decree is a cost-effective alternative to litigation that will allow government and Honeywell resources to be spent on remediation, rather than litigation.
	G-2.2	The State has no financial guarantee that Honeywell will complete the process.	Please see the response to Comment R-2.4.



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	G-2.3	<p>"Furthermore, the settlement value of approximately \$451 million seems contrived and conspicuously equals the public investment in the sewer improvement projects. The sewer improvement projects under the Amended Consent Judgement (ACJ) represent the largest public works project in Central New York to date. The same coalition of engineering firms, businesses, and organizations that designed the sewer improvement projects are likely to design and implement the sediment remediation. As with the ACJ, many view the sediment remediation of Onondaga Lake as a "make-work" project. Use of environmental programs and regulation as a tool to provide local economic aid is a cause for concern, and leaves the public impression that environmental compliance and the protection of human health and environment are secondary issues.</p> <p>A critical examination of business interests and relationships among local governments, institutions, engineering firms, consultants, and Honeywell might lead on to theorize that the State and local governments were complicit with, and for the benefit of, Honeywell when signing the ACJ in order to delay and/or avoid diversion of the Metro effluent to the Seneca River. Nutrient loading promotes algal biomass in the hyper-eutrophic epilimnion of Onondaga Lake, which in turn depletes oxygen in the hypolimnion upon microbial decomposition. In effect, Onondaga Lake becomes shallow to</p>	See the response to Comment G-2.1, above.

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	G-2.3 (cont.)	macro-invertebrates and fish, as hypoxia confines most life forms to the upper waters and precludes establishment, and therefore contact with contaminated sediments in the deep waters of the profundal zone. Hence, failure to adequately address in a timely manner the nutrient loading problems in Onondaga Lake has afforded the parties responsible for chemical contamination time to defer cleanup costs. The plan put forth under the ROD, and agreed to in this Consent Decree, does more of the same."	



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	G-2.4	<p>The data sets used to develop the plan were insufficient, disjointed, outdated, incomplete, and fail to establish comprehensive linkages over time. There was not a sufficient understanding of mercury (total) and methylmercury sources and fate.</p>	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is noted in the ROD, during the RI process from 1992 through 2002, over 6,000 samples were collected and analyzed for contaminants including metals, volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), PCBs, dioxins, and pesticides. These data were assessed in the RI (TAMS, 2002c) in the context of historical data (including those presented in Effler, 1996, NYSDEC long-term fish monitoring, aerial photographs, and other technical documents dating back to the 1940s). These data and analyses resulted in the construction of a conceptual site model, quantification of the mercury loads for various sources, and a mercury mass balance for the stratified period for Onondaga Lake (see Chapter 6 of the RI and responses to Technical Comments #14 and 17 in the ROD's Responsiveness Summary* [NYSDEC, EPA, and TAMS/Earth Tech, 2005]).</p> <p>To further examine the potential changes in fish concentrations after implementation of the selected remedy, an assessment of the potential concentrations of methylmercury in the media that the fish would be exposed to (water and food) after remediation was conducted during development of the Proposed Plan and ROD (see responses to Technical Comments #15 and 16). The full responses are included in the ROD's Responsiveness Summary* and are not repeated herein.</p>

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	G-2.5	A comprehensive monitoring program, designed to identify success or failure of the program, is needed and should be conducted by an independent party.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is discussed in the response to Frequent Comment #4 in the ROD's Responsiveness Summary*, the development and implementation of a monitoring program for various site media (e.g., sediment, water, and biota) is required in the ROD and would begin as soon as practicable. The monitoring will be designed to serve as the baseline against which remedy performance can be measured. Sampling and analysis of fish will be a critical part of the monitoring program.</p> <p>As is noted in the ROD's Responsiveness Summary*, the monitoring program will be overseen by NYSDEC as part of the Superfund process. However, since NYSDEC is aware that numerous experts in the field are already conducting monitoring of the lake under various programs and exploring the development of models for Onondaga Lake, the Superfund monitoring program will consider the possibility of using the existing programs and expertise.</p>

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	G-2.6	A goal of the remedy should be the establishment of a cold-water fishery that should be edible, absent of atmospheric inputs to the system.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is discussed in the response to Frequent Comment #15 in the ROD's Responsiveness Summary*, the focus of a CERCLA-based remediation is to address releases of hazardous substances consistent with the NCP. There are programs, such as those administered by the Onondaga Lake Partnership (OLP), to improve fisheries in the lake that are unrelated to NYSDEC and EPA's program for addressing hazardous substances in the lake under CERCLA. Nonetheless, changes that may take place in the lake due to the remediation, as well as the long-term monitoring program, may provide additional information relevant to the feasibility of fishery improvements under other programs. During the remedial design, there will be coordination with the OLP, to the extent appropriate, consistent with CERCLA and the NCP. Also see response to comment G-3.3.</p>

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Les Monostory, President, Onondaga County Federation of Sportsmen's Clubs	G-3.1	The Onondaga County Federation of Sportsmen's Clubs supports the cleanup plan for the lake sediments and its goals.	Comment noted.
	G-3.2	The major problem that remains to be resolved is the cleanup of the lake bottom as well as lower Geddes Brook and Ninemile Creek, and the wastebeds/upland sites.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>The components of the remedy for Onondaga Lake are outlined in the Onondaga Lake ROD. Also, as is discussed in the response to Frequent Comment #5 in the ROD's Responsiveness Summary*, considerable progress has been made in addressing the historic contamination at the upland sites. NYSDEC is committed to completing remediation at these upland sites in a timely manner in order to expedite the remediation of Onondaga Lake. Geddes Brook and Ninemile Creek, will be addressed under a separate ROD(s).</p>



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Name/Agency	Comment Code	Comment Summary	Response
	G-3.3	The commentor states that, "An important feature of the cleanup plan is that the Consent Decree has in place standards to be met, rather than dollar figures, for attainment of future fish and sediment target levels."	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is noted in the response to Comment N-2.10, the selected remedy addresses all areas of the lake where the surface sediments exceed a mean probable effect concentration quotient (PECQ) of 1 or a mercury PEC of 2.2 mg/kg. The selected remedy will also attain a 0.8 mg/kg BSQV for mercury on an area-wide basis. The appropriate areas, within the lake, for applying the BSQV will be determined during the remedial design. The selected remedy is also intended to achieve lakewide fish tissue mercury concentrations ranging from 0.14 mg/kg, which is for protection of ecological receptors, to 0.3 mg/kg, which is based on EPA's methylmercury National Recommended Water Quality criterion for the protection of human health for the consumption of organisms. The description of the selected remedy in the ROD is based on performance of required technical aspects of the design, implementation, and monitoring of the remedy. It is correct that Honeywell's obligation is to perform these actions to meet the remedial goals, not to spend a specific amount of money.</p>
	G-3.4	The Sportsmen's Federation supports the process of developing a monitoring plan and plans on playing an oversight role during remediation and monitoring.	Comment noted. See response to Comment G-1.2.

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Peter W. Plumley, Milton J. Rubenstein Museum of Science & Technology and Syracuse University	G-4.1	The commentor supports the plan and looks forward to the lake's healing progress.	Comment noted.
Samuel H. Sage, President, Atlantic States Legal Foundation, Inc.	G-5.1	The commentor states, "Atlantic States Legal Foundation, Inc. submitted comments on the ROD in 2005. At this point we would reiterate the points made then. We urge that the projects and procedures described in the ROD and these three documents be finalized, as appropriate, and submitted to the court forthwith. All of us deserve as expedited implementation as possible."	Comment noted. Please also see the response to Comment R-1.2.
	G-5.2	The commentor hopes that, "implementation can happen with full cooperation of the parties and full disclosure to and involvement of the public." In addition the commentor believes that ASLF "should be involved at every step and should be part of the team developing the work plan and public participation plan for carrying out this project."	Please see the response to Comments N-2.9 and R-2.2.

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	G-5.3	The commentor states that, "...the constant mention of a "price" for the implementation of this program has been interpreted in many quarters as a "penalty," rather than what it is as an estimated cost for what is thought to be the necessary amount of resources Honeywell will have to expend in implementation. The public is not being adequately made aware that under Superfund, the clean-up is performance based, i.e. to protect human health and the environment, and so the ultimate success or failure of this clean will be measured by continued monitoring of results after completion of construction and not by the expenditure of any set amount of money. If the plan envisioned by the ROD does not work, then Honeywell must do it over until it does work. The necessary expense in re-doing this clean-up falls on Honeywell's shoulders and could make the final expenditure much greater than the estimated number."	NYSDEC will generate future fact sheets and presentations, associated with the remediation of Onondaga Lake, such that the information presented is clear to the public, as well as accurate.
	G-5.4	The commentor states, "Atlantic States Legal Foundation, Inc. has pledged its cooperation both to the State and to Honeywell in making sure that correct, understandable, and adequate information flows to the public. That cooperation and involvement should start immediately - it should not have to wait for an approved work plan."	NYSDEC recognizes the importance of ASLF to the Onondaga Lake community and will continue our on-going dialogue with ASLF as the Onondaga Lake remedial design process proceeds. Please also see the responses to Comments N-2.9, R-2.2, and G-5.5.

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	G-5.5	The commentor states that, "The CO should spell out in details that all document submitted under this CO should be placed in the various document repositories or at least to the three that are the most complete. This must also include all document mentioned in the CO."	Please note that the legal agreement for implementing the remedy is a Consent Decree (not a Consent Order [CO]). Pursuant to Paragraph 84 of the Consent Decree, Honeywell will send all approved documents to six document repositories for Onondaga Lake. In addition, the various technical documents mentioned in the consent decree will be placed in the document repositories. A modification of the Consent Decree is not necessary to address this comment.
	G-5.6	The commentor states, "We realize that a detailed public participation plan is yet to be written and is one of the first tasks after completion of a work plan. We would urge that the CO be amended to include ASLF as the EPA designated TAG agency and that there is a role for ASLF in drafting this plan and in its implementation."	As part of NYSDEC's on-going dialogue with ASLF, NYSDEC will meet with ASLF to discuss the public participation plan prior to the plan being finalized. A modification of the Consent Decree is not necessary to address this comment.
	G-5.7	The commentor states, "Throughout the Onondaga Lake remediation and clean-up process there have not been any end goals except for meeting regulatory requirements." The commentor also states, "The modifications spelled out in the ESD will require changes in habitat. The goals for the direction and desirable outcomes of these changes should be set by the public under the direction of the DEC."	Please see the responses to Comments N-2.9 and R-2.2.



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	G-5.8	The remedy should be designed to ensure that the two newly found endangered plant species in the lake are protected.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>The ROD was based on the information available at the time it was written. It was recognized at that time that additional information on the lake habitat would be required during remedial design. This can be seen in the text from the ROD (pages 78 and 79) describing the selected remedy, which indicates that the design phase of the process will address habitat issues in sample collection, design, and construction, including the development of and adherence to a lakewide habitat restoration plan.</p> <p>Information on these newly found plant species will be reviewed by NYSDEC during the remedial design to determine if they are found in areas where dredging and/or capping will take place, and if so, what steps need to be taken to minimize impacts to these endangered plant species.</p>
	G-5.9	Are there concerns with any by products from the potential decomposition of the steel or the epoxy coating of the barrier wall?	NYSDEC is not aware of any information that would give rise to these referenced concerns. Coated sheet pile walls are not only a common technology for barrier walls but sheet piling is used extensively for bulkhead walls on fresh and sea water. These have been used throughout the United States.

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	G-5.10	A mitigation plan must be developed to address the loss of lake surface area due to the changes detailed in the ESD. The plan should be subject to public discussion before final approval.	<p>NYSDEC recognizes that the proposed change in the remedy as it pertains to the pooled NAPL removal will cause a loss of lake surface area that will need to be mitigated. The draft ESD states that "As compensatory mitigation for the loss of aquatic habitat resulting from placement of the barrier wall, existing upland area adjacent to Onondaga Lake will be converted to new aquatic habitat. The design document for remediation of SMU 2, and the adjacent area in SMU 1, will include specifications for the construction of a natural shoreline lakeward of the barrier wall that is consistent with the lakewide habitat restoration plan ('Remedial Design Elements for Habitat Restoration document'). " The location and nature of the compensatory mitigation will be determined during design.</p> <p>The mitigation plan will be available for public review and comment prior to final approval, as required by the regulatory programs implemented by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.</p> <p>Please also see the response to Comments N-2.9 and R-2.2.</p>
	G-5.11	The commentor asks, "Do the changes enumerated in the ESD change the time line from the ROD?"	The changes reflected in the draft ESD would not influence the timeline outlined in the ROD.
	G-5.12	The commentor states, "There should be public involvement in the design phase of the project. Honeywell and NYSDEC should develop a plan for getting input before detailed design commences and then keep the public informed as the design progresses. We realize that a public participation plan is being drafted and is the second item after the overall work plan. However, we are also aware that some design work is now ongoing and so efforts are needed immediately to get this part of the public involvement plan launched."	Please see the responses to Comments N-2.9, R-2.2, and G-5.2.

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	G-5.13	Does moving the barrier wall into the lake change any of the permitting requirements? "For example, does Honeywell need to apply to the Army Corps of Engineers for dredge and fill permit (404) or a Section 10 permit?"	Although Honeywell will not need to obtain federal dredge and fill permits, the modified remedy will be performed in conformance with the substantive requirements of regulatory programs implemented by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The remedy will utilize best management practices to ensure the utmost protection to the aquatic resource during construction operations and as part of the proposed reestablishment of habitat.
	G-5.14	The commentator states, "Atlantic States Legal Foundation, Inc. finds nothing of concern with this SCA. We have one question that relates to the entire wastebed area. While the clean-up of the Onondaga Lake sediments is being carried out and material is being transported into wastebed 13, will this necessitate any restrictions on what is being done on the other wastebeds and on future considerations of their use?"	While this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, the scope of work (SOW), or the Explanation of Significant Difference (ESD), NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake. Please see the section entitled "Summary of Public Comments" of the Responsiveness Summary for more information.  Long-term future impacts on nearby wastebeds, from the construction/operation/closure of the SCA on Wastebed 13 are not anticipated.
Carol Sweet, President, Friends of Historic Onondaga Lake	G-6.1	The Friends of Historic Onondaga Lake support the plan.	Comment noted.



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<b>Public (Individual) Comments</b>			
James V. Breuer	P-1.1	The commentor supports the plan and looks forward to continued progress.	Comment noted.
Edna Carr	P-2.1	More should be done to clean up Onondaga Lake. The current proposal from NYSDEC and Honeywell is a "quick fix" and should be refused. The lake would be more costly to fix later.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As discussed in the response to Frequent Comment #6 in the ROD's Responsiveness Summary*, consistent with EPA's guidance for conducting remedial investigations and feasibility studies (RI/FSs) under CERCLA and the NCP, the time needed to implement the remedy (which relates to implementability and short-term effectiveness) and its cost must be considered as part of a nine-criteria evaluation. Based on NYSDEC's and EPA's evaluation of these criteria, the selected alternative provides the best balance of tradeoffs among the remedial alternatives with respect to the NCP's evaluation criteria. In addition, because this remedy will result in hazardous substances, pollutants, or contaminants remaining on-site above levels that allow for unlimited use and unrestricted exposure, a statutory five-year review will be conducted within five years after initiation of remedial action. The five-year reviews will formally evaluate the results from monitoring programs established as part of this remedy to ensure that the remedy remains protective of human health and the environment.</p>

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Joseph Francis	P-3.1	Dredging will only spread the contamination. The commentor suggests that instead of dredging, the lake should be drained, contaminated sediments should be removed in the dry, treated and disposed, and the lake bed covered with sand.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>Please see the response to Comment P-2.1.</p> <p>Hydraulic dredging with proper engineering controls is expected to have relatively few problems in terms of resuspension and spreading of contamination. As is discussed in the response to Frequent Comment #7 in the ROD's Responsiveness Summary*, dredging has the potential to present short-term water quality impacts. The disturbance of bottom sediments by dredging would result in increases in the levels of some suspended solids in the lake near the area of dredging. However, modern environmental dredges are relatively precise machines that can carefully remove targeted sediments without excessive disturbance of the lake bottom. Thus, it is expected that only a small fraction of the material dredged will actually enter the water column and that much of this material will settle in the immediate work area and will, as a result, be removed by continuing dredging operations. The remaining dredged material that does not quickly settle to the bottom within the work zone will be contained with a silt curtain that will encircle the work zone.</p> <p>In addition, considerable monitoring will occur during both dredging and capping operations. Should it be determined that unacceptable levels of suspended sediments are being generated by dredging operations, there will be an opportunity to modify operations so as to reduce those levels. Possible actions that could be taken in this regard include slowing down the rate of sediment removal, changes</p>

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	P-3.1 (cont.)		<p>to the depth of the dredge cut, and modifications to the movement of the dredge equipment.</p> <p>The draining of the lake was not directly considered in the FS and ROD. However, the large impacts on the lake habitat caused by draining the lake and regulatory issues would preclude this suggested alternative. Due to improvements at the Metro plant and closure of the Honeywell facilities, a large number of fish, zooplankton, and macrophytes have returned to the lake. See also the response to Frequent Comment #2 in the ROD's Responsiveness Summary*.</p>
Wendy Harris	P-4.1	The commentor states, "Simply, I believe that the settlement and clean up plan proposed is a disgrace and a hazard to all future life in and around the lake."	Please see the responses to Comments P-2.1, N-2.3, and G-2.1.



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	P-4.2	<p>"The proposed cleanup/cover-up would leave Onondaga Lake with mercury levels 1,400 times the safe exposure level. The proposed cleanup would leave the PHH1 levels in excess of 22,000 times the safe level, 1,300 times the safe level of benzene. All of the lake pollutants post-remediation levels far exceed safe exposure and the law."</p>	<p>While this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, the draft ESD, and the SCA Siting Evaluation. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>It appears that the cap threshold values (CTVs) presented in the Proposed Plan were misinterpreted by the commentor. The CTVs should not be confused with the derivation of the cleanup levels for sediments. As is discussed in the ROD and Responsiveness Summary*, the mean PECQ of 1 was determined to be protective and was used along with exceedances of the mercury PEC of 2.2 mg/kg as the cleanup values in five of the six action alternatives in the Proposed Plan and ROD, including the selected alternative. The CTVs for hot-spot dredging were developed by NYSDEC and are based on the isolation cap model predictions using a higher groundwater upwelling rate than what Honeywell used in the FS report. These values (described on pages 45 to 46 of the ROD) represent the maximum concentrations that could be present in the wastes/sediments and not cause failure of a cap with a 2.5-foot-thick isolation layer assuming an upwelling rate of 2.4 inches/year (6 centimeters/year). The hot spots are defined as those wastes/sediments that contain select CPOs (based on their presence at significantly elevated concentrations in the ILWD materials and/or compounds to which the cap model was most sensitive) above the threshold concentrations (CTVs). It is important to note that based on existing sediment data from the RI/FS, only chlorobenzene, dichlorobenzenes, and xylenes exceed their respective cap threshold values in the ILWD. Following removal, an isolation cap would be placed. The CTVs do not represent residual concentrations in surface sediments. The highest values to be expected at the top of the cap will be below the individual PECs for each compound evaluated in the cap modeling.</p>



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<b>Name/Agency</b>	<b>Comment Code</b>	<b>Comment Summary</b>	<b>Response</b>
	P-4.3	The commentor states, "The proposed remediation has no milestones by which citizens could measure progress in eliminating toxic hazards, it is literally a cover-up."	See response to comment R-2.3.

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Name/Agency	Comment Code	Comment Summary	Response
	P-4.4	<p>The commentor states that, "Our county executive rightly points out that if we dredged the lake we would only create a problem for people wherever we dumped the waste. Our county executive rightly points out that the costs would be prohibitive if we were expected to restore Onondaga Lake to the standard of the law. And, both of these realities should suggest that the rest of our environmental history is doomed if we do not take a stand here. Albert Einstein said that we can not solve the problem with the same mind that created the problem. The County executive is of the old mindset, the Onondaga Nation and their land claim lawsuit is of the new mindset. I believe we have to change the law and require every viable corporation who ever soiled this lake, share proportional responsibility it the lakes cleanup based on their share of its problem. The city and county governments must be held responsible for their failure to manage water overflow and human waste treatment problems. Citizens must also be willing to dig deep to do what is right - remediate this lake in a way that will communicate to all current and future polluters, that we no longer will tolerate such wonton exploitation of our environment. Maybe Syracuse could become the leader in environmental toxic awareness, spear heading a national debate on consequences of our lifestyle, corporate responsibility, and environmental stewardship. Maybe we could turn this in to positive for our city and region.</p>	<p>Comment noted. Please see the response to Comment P-2.1.</p>

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Name/Agency	Comment Code	Comment Summary	Response
	P-4.4 (cont.)	<p>We as a people have become complacent and hopeless about anything but money and big business speaking. Please consider the voice of Mother Earth, please do the right thing for your grandchildren seven generations out and beyond.</p> <p>I am simply a citizen, with no particular affiliations, that believes that this is a tragically inadequate plan of a so-called clean up. It provides near term political cover for our "leaders" to have appeared to have done something, when in reality all they did was place a 'band aide' on a festering ill with the hope that it stays contained. Shame on all of us for considering this a real solution. Shame on us for passing the true burden to our children and ignoring any real call to responsible action."</p>	
Donald Lovejoy	P-5.1	The commentor states, "Personally I would like to see the lake cleaned and put to good use. However, according to the article I read on the WTVH.com site, the proposed method of cleaning the lake is not the solution to keeping it clean. In fact the article suggested that in 50 years we will have the same problem and I for one will still be around to deal with that issue."	Please see the responses to Comments P-2.1, N-2.3, and G-2.1.
	P-5.2	The commentor states, "The other reason I would be against the project is the \$451 million. That just seems like an awful lot of money that could be put to a use that is guaranteed to raise our standard of living in the Syracuse area."	Please see the response to Comment P-2.1. NYSDEC is responsible for investigating and, as appropriate, remediating hazardous waste sites located throughout New York State. Onondaga Lake, although a hazardous waste site, is also a valuable natural resource that is and will continue to be utilized by the people of New York State. By remediating Onondaga Lake, NYSDEC will be improving this valuable resource.

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Name/Agency	Comment Code	Comment Summary	Response
Verne N. Rockcastle	P-6.1	The commentor supports the oral comments by Lindsay Speer.	See the responses to Comments O-13.1 through O-13.3, below.
Bob Walker	P-7.1	The commentor provides suggestions to NYSDEC for restoring the lake environment, including cleaning up debris along the shoreline, planting of native trees and shrubs, and allowing easier access for non-powered boats, among others.	<p>The improvement of the lake and shoreline habitat is an important aspect of the remediation of Onondaga Lake. As is noted in the ROD on page 42, because of the importance of Onondaga Lake as a natural resource, and to ensure that the remedy complies with NYSDEC regulations, the protection of habitat through remediation and restoration was an important consideration in the development of the various capping and dredging alternatives. Throughout the analysis of the various alternatives, the goal of reestablishing productive aquatic habitat in the lake was considered along with the need to provide an effective and permanent remedy to the adverse impacts of contamination on the fish and wildlife resources of the lake. Accordingly, a lakewide habitat restoration plan will be required as part of the remedial design.</p> <p>The commentor's suggestions will be considered during the development of the lakewide habitat restoration plan during design.</p>
<b>Oral Comments</b> (NOTE: These oral comments were given at the October 19, 2006 public meeting. They have been summarized from the meeting's transcript, and are presented in the order they were received.)			
Bob Czaplicki, Supervisor, Town of Geddes	O-1.1	The commentor supports the plan.	Comment noted.
Jim Farrell, Onondaga County Legislator	O-2.1	The commentor supports the plan.	Comment noted.
Jeff Freedman, Onondaga Yacht Club	O-3.1	The commentor supports the plan.	Comment noted.
	O-3.2	The commentor is pleased with the interactions with the NYSDEC.	Comment noted.
	O-3.3	This critical phase of removing toxins should begin as expeditiously as possible.	See the response to Comment R-1.2, above.



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Name/Agency	Comment Code	Comment Summary	Response
	O-3.4	The remediation should provide for plant-free zones to promote access for boating, especially near the marina.	The area near the marina is not currently proposed for direct remediation for CERCLA-defined hazardous substances. However, this issue will be considered during the development of the lakewide habitat restoration plan, as was discussed in response to Comment O-10.3 in the ROD's Responsiveness Summary*.
	O-3.5	Underwater obstructions to navigation should be removed or marked.	Although it is not envisioned that the remediation of Onondaga Lake will result in the creation of any underwater obstructions, if such obstructions are created or encountered in areas of the lake that are remediated, such obstructions will be addressed. With respect to underwater obstructions that exist in areas that will not be remediated, NYSDEC does not have the authority to require Honeywell to remove or mark such obstructions.
	O-3.6	"Third, regarding the newly proposed containment wall, to be constructed on the lake, we support the idea that a natural shoreline appearance be restored after the work is completed, rather than leaving a bulkheaded structure. The natural appearance of Onondaga Lake, in our view, as surrounded by the county park, is one of the lake's greatest assets, and is well worthy of preservation and restoration."	Comment noted.
	O-3.7	The commentator supports the plan and urges that the remediation begin as expeditiously as possible.	Comment noted. See also the response to Comment R-1.2, above.
Bill Pease, Onondaga Yacht Club	O-4.1	The commentator supports the plan.	Comment noted.

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Name/Agency	Comment Code	Comment Summary	Response
Thane Joyal, Onondaga Nation	O-5.1	<p>"The three documents that New York State Department of Environmental Conservation has presented for public comment are very important and they represent separate steps in the process, required by CERCLA. At the outset, we are deeply concerned that the draft consent decree incorporates, by reference, the as yet unfinalized E.S.D. This is yet another reminder that public comment, from NYSDEC's perspective is a meaningless waiting period that must pass before they can move forward with the plan.</p> <p>As the Nation has repeated on countless occasions, meaningful comment and meaningful consultation requires an exchange of ideas before a final decision is made. We deeply regret the NYSDEC's continued efforts to steamroll this project forward."</p>	<p>NYSDEC relies on public input to ensure that the concerns of the community are considered in making important decisions at sites requiring remediation. That is why the draft ESD (along with the proposed Consent Decree and other related documents) were issued for public comment in October.</p> <p>Please also see the responses to Comments N-1.5, N-2.9, and R-2.2.</p>



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Name/Agency	Comment Code	Comment Summary	Response
	O-5.2	The selected plan will leave contaminants at levels significantly higher than NYSDEC's own safe levels and the lake will remain a Superfund site.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>While the selected plan will leave concentrations of contaminants in deep sediments of the lake, these residual contaminants would not be exposed to the environment. As is discussed in responses to Comments G-3.3 and P-4.2 above, the cleanup values of a mean PECQ of 1, the mercury PEC of 2.2 mg/kg, and the mercury BSQV of 0.8 mg/kg (applied on an area-wide basis) are the maximum concentrations of CPOIs that will be left exposed in the surface sediments. Any areas exceeding these values will be remediated.</p> <p>In those areas in the littoral zone to be remediated (through a combination of dredging and capping), an engineered cap using clean material will be applied. Modeling of the cap effectiveness is expected to determine how thick the cap must be to preclude exceedances of the cleanup values for the lake. As is discussed in response to Comment P-4.2, above, cap threshold values were calculated on more conservative criteria and represent the maximum concentrations that would be allowed to remain under the cap, without additional remedial actions. Monitoring will be implemented to ensure that the contaminants under the cap will be isolated from the lake environment. The contaminants (primarily mercury) in the majority of the profundal zone sediments are predicted to be naturally isolated from the environment due to on-going sedimentation burying the more contaminated sediments with cleaner sediment.</p>

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Name/Agency	Comment Code	Comment Summary	Response
	O-5.2 (cont.)		<p>As is noted in the ROD on page 81, because this remedy would result in contaminants remaining on-site above levels that allow for unlimited use and unrestricted exposure to site media, CERCLA requires that the site be reviewed at least once every five years. The five-year review will formally evaluate the results from monitoring programs established as part of this remedy to ensure that the remedy remains protective of human health and the environment.</p>
	O-5.3	<p>What is the benefit of this plan? The selected plan means that the lake will be contaminated into the future.</p>	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As is discussed in the ROD, the selected remedy addresses all areas of the lake where the surface sediments exceed a mean PECQ of 1 or a mercury PEC of 2.2 mg/kg. The selected remedy will also attain a 0.8 mg/kg BSQV for mercury on an area-wide basis. The appropriate areas, within the lake, for applying the BSQV will be determined during the remedial design. The selected remedy is also intended to achieve lakewide fish tissue mercury concentrations ranging from 0.14 mg/kg, which is for protection of ecological receptors, to 0.3 mg/kg, which is based on EPA's methylmercury National Recommended Water Quality criterion for the protection of human health for the consumption of organisms.</p> <p>The intended benefits or outcome of the selected plan is that the contamination currently in the lake sediments or flowing into the lake would be removed or isolated and no longer interact with the environment. In order to demonstrate this result, a long-term monitoring program will be instituted, and a formal evaluation of the data will be conducted every five years (based on annual reviews of the data). See also the response to Comment O-5.2, above.</p>

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Name/Agency	Comment Code	Comment Summary	Response
	O-5.4	The revision to the remedy is a fundamental change to the ROD.	<p>NYSDEC and EPA determined that the revision to the selected remedy in the July 1, 2005 Lake Bottom ROD is a significant, rather than a fundamental change for the following two reasons.</p> <p>First, the principal components of the remedy (i.e., dredging and isolation capping in the littoral zone to prevent loss of lake surface area, for erosion protection and to reestablish habitat, and to remove sediments and/or wastes from the portion of the in-lake-waste-deposit ["ILWD"], and thin-layer capping and the performance of an oxygenation pilot in the profundal zone to reduce contaminant concentrations in the upper layer of sediments and to reduce the formation of methylmercury in the water column) have not been fundamentally changed. As remedies progress from the selection of the remedy in a ROD to the design of the remedy, changes are often made to reflect additional information obtained as part of the design process. Here, the remedy as proposed to be modified by the ESD still focuses on dredging and isolation capping in the littoral zone, but also responds to pre-design data indicating that the extent of pooled NAPL is significantly less than had been estimated in the ROD. While, as contemplated in the draft ESD, there would be the loss of approximately two acres of aquatic habitat in the lake in the Sediment Management Unit ("SMU") 2 causeway area and a small adjacent area of SMU 1 due to the isolation of contamination behind a barrier wall coupled with NAPL removal by extraction wells, as opposed to the dredging in this area as was envisioned in the ROD; under the draft ESD, replacement of the lost aquatic habitat would be implemented in an upland area adjacent to the lake to mitigate for the loss. The remedy, as proposed to be modified with the draft ESD would still require the capture and treatment of the pooled NAPLs as a significant component of the remedy. Pursuant to the draft ESD, pooled NAPLs would be collected by extraction wells as opposed to dredging. The treatment of collected NAPLs off-site would not change under the draft ESD.</p>



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	O-5.4 (cont.)		Secondly, based on information obtained during the preliminary design investigation on the extent of pooled NAPLs present in the lake, the change in the volume of sediments to be dredged from the lake is a small percentage relative to the total volume (i.e., approximately 6 percent <sup>1</sup> ). It should also be noted that while the change to the remedy would be addressed via an ESD rather than an amended ROD, the principal administrative and public participation requirements associated with the issuance of an amended ROD (e.g., 30-day public comment period following the release of the notice of the change, the holding of a public meeting, and the generation of a Responsiveness Summary following receipt and review of public comments) are being conducted.
Susan Hammond	O-6.1	With respect to background information, site history, extent of contamination, health effects, and the inclusion of seven alternatives, the ROD was a wonderful document.	Comment noted.

<sup>1</sup> The total volume of sediment originally to be dredged, pursuant to the ROD, was an estimated 2,653,000 cubic yards (cy). The volume behind the proposed barrier wall location, which would no longer be dredged pursuant to the proposed ESD, is an estimated 157,000 cy or approximately 6 percent of the total ROD volume.

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Name/Agency	Comment Code	Comment Summary	Response
	O-6.2	Was there a change in the selected remedy that was in the Proposed Plan after the public comments?	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>The alternative selected in the ROD (Alternative 4) was the same alternative that was proposed in the November 2004 Proposed Plan. NYSDEC reviewed and responded to all public comments, and documented these in the formal Responsiveness Summary* attached to the ROD. During that process, NYSDEC and EPA reassessed numerous aspects of the information presented in the Proposed Plan. The ROD and Responsiveness Summary* provided additional information and analyses beyond what was contained in the Proposed Plan as well as clarification of many points on why Alternative 4 was selected and how that alternative would be implemented. Thus, in the final consideration, the same basic plan (with added clarifications) as was originally proposed in November 2004 was selected as the cleanup plan in the ROD (July 2005).</p>

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Name/Agency	Comment Code	Comment Summary	Response
	O-6.3	Why was Alternative 7, which was described as providing greater long-term effectiveness, not selected? How is the selected alternative more "cost effective?"	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>NYSDEC and EPA determined that the selected alternative provided the best balance of positive benefits for the lake and potential negative impacts on the community. The benefits of this alternative include the removal of up to an estimated 2.65 million cubic yards of contaminated sediments and waste from the lake, isolation of the remaining material from the lake environment, reduction or elimination of the methylation of mercury in the lake, utilization of a barrier wall to prevent contaminated groundwater from entering the lake, and improvement of the habitat throughout large areas of the lake. These actions are predicted to reduce CPOI concentrations in the sediments to levels where toxicity would not be detected and reduce contamination in fish to levels comparable to other waters in the State.</p> <p>Consistent with EPA's guidance for conducting RI/FSs under CERCLA and the NCP, the time needed to implement the remedy (which relates to implementability and short-term effectiveness) and its cost must be considered as part of a nine-criteria evaluation. The considerations included whether the increase in removal for the more costly alternatives would lead to a disruption of the aquatic community in the lake, restrictions on the use of certain areas of the lake, and potential community impacts due to noise, traffic (truck, barge, and train), as well as the span of time in which these potential impacts would occur. In addition, the use of additional land for contaminated sediment disposal must also be considered and evaluated. Balancing the public's desires to see as extensive and permanent a cleanup as possible, along with the public's concerns about the potential impacts, was factored into NYSDEC and EPA's selection of Alternative 4. The</p>



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<b>Name/Agency</b>	<b>Comment Code</b>	<b>Comment Summary</b>	<b>Response</b>
	O-6.3 (cont.)		increased demonstrable benefits of Alternatives 6 and 7 were marginal, while the increased environmental costs (impacts) were large. It was this balancing of benefits versus environmental costs (impacts), as well as the construction and operational costs, that was the basis of the selected remedy being "cost effective." .  See also the response to Comment P-2.1 (above) and the response to Frequent Comment #6 in the ROD's Responsiveness Summary*
Sherri Mossotti	O-7.1	The commentor supports the plan.	Comment noted.
Bryan Campbell	O-8.1	The commentor would like to see the continuation of the cleanup.	Comment noted. See also the response to Comment R-1.2, above.
	O-8.2	The Central NY Wild Fowlers is committed to helping with habitat restoration.	Comment noted.
Erin Cunningham	O-9.1	The commentor supports the plan.	Comment noted.
Ms. Furlong	O-10.1	The commentor supports the plan.	Comment noted.
Russ Andrews	O-11.1	The commentor supports the plan.	Comment noted.
Terry Brown, O'Brien & Gere Engineers	O-12.1	NYSDEC and Honeywell should be congratulated on this agreement (consent decree). The commitment of resources for the lake and upland sites is unprecedented.	Comment noted.
	O-12.2	The commentor supports the plan.	Comment noted.
Lindsay Speer	O-13.1	The commentor would like to see Onondaga Lake cleaned up so that it can be an asset to our community.	Comment noted.

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Name/Agency	Comment Code	Comment Summary	Response
	O-13.2	The plan does not look far enough into the future. There is a time when the engineered constructs will fail.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>As was discussed above in the responses to Comments R-2.6 and P-2.1, the selected plan is intended to remove or isolate the contamination in the lake. The effectiveness of the remedy will be monitored, and the monitoring data will be formally evaluated every five years with respect to the goals identified in the ROD (as dictated by law), and if necessary, changes will be implemented to the remedial plan.</p>
	O-13.3	Hopes that the public is guaranteed a role in commenting on the design phase.	See response to Comment G-5.2.
Bob O'Leary	O-14.1	The commentator wanted to "...thank people for the reference in cleaning up Onondaga Lake."	Comment noted.
	O-14.2	The Chargers rowing group will, within the next three months, be coming to the NYSDEC to discuss the number of permits we have to get. We hope NYSDEC will be able to assist us.	Comment noted.

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Name/Agency	Comment Code	Comment Summary	Response
Casey Cleary-Hammarstedt	O-15.1	To cap what cannot be capped does not make sense. Capping is just hiding the problem.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>See the responses to Comments P-2.1, P-4.2, and O-5.2 above. See also the response to Frequent Comment #6 in the ROD's Responsiveness Summary*.</p>
	O-15.2	What is the outcome of this plan? The selected plan means that the lake will be contaminated into the future.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>See the response to Comment O-5.3 above. The remedy was developed to be protective of the environment and human health, by removing or isolating the contamination currently in the lake, and was determined to be implementable. The remediation of the upland sites under other legal orders will prevent new contamination from entering the lake. As is discussed in the responses to Comments R-2.6, L-2.2, and G-2.5, above, the success of this plan in addressing risks due to hazardous substances will be measured in a long-term monitoring program and the data will be compared to the RAOs and PRGs specified in the ROD, as required by law.</p>



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Name/Agency	Comment Code	Comment Summary	Response
	O-15.3	A goal of the remediation should be to have fish that are safe to eat.	<p>Similar to Comment N-2.12, this comment relates to matters (i.e., remedy selection) outside the scope of the present comment period on the Consent Decree, draft ESD, and Siting Evaluation for the SCA. However, NYSDEC provides the following response as part of its continuing commitment to be responsive to the public regarding comments and questions regarding the remedial program for Onondaga Lake.</p> <p>The reduction of contamination levels in fish to levels that are protective for human health and fish and wildlife is a major goal of the selected remedy, and is included in the RAOs and PRGs presented in the ROD. As is discussed in the ROD and ROD's Responsiveness Summary* and in the response to Comment G-3.3, above, the selected remedy is intended to achieve lakewide fish tissue mercury concentrations ranging from 0.14 mg/kg, which is for protection of ecological receptors, to 0.3 mg/kg, which is based on EPA's methylmercury National Recommended Water Quality criterion for the protection of human health for the consumption of organisms.</p>
	O-15.4	How can natural recovery be effective with these artificial man-made compounds?	As is discussed in the ROD and response to Technical Comment #10 in the ROD's Responsiveness Summary*, natural recovery can occur through a variety of physical, chemical, and biological processes that act singly or in combination to reduce contaminant concentrations, exposure, or mobility. This process can occur in various media at a site (e.g., water and sediments). In most of the Onondaga Lake profundal zone (SMU 8), the ongoing burial of contaminated sediments with cleaner sediments is the process that will be utilized to isolate contamination (especially mercury) from the rest of the lake habitat.
	O-15.5	What is the endpoint against which to measure the success of the remedial program?	As is discussed in the ROD and in the responses to Comments L-2.2, O-5.3, and O-15.3, above, NYSDEC and EPA have determined that this remedy is protective and will satisfy the goals (RAOs and PRGs) presented in the ROD. An evaluation of the success of the remedy with respect to these goals will be measured in a long-term monitoring program and reassessed every five years.

\* The Responsiveness Summary is available on the internet at <http://www.dec.state.ny.us/website/der/projects/ondlake/responsiveness.pdf> and also at the following document repositories:

Atlantic States Legal Foundation\*  
658 West Onondaga Street  
Syracuse, NY 13204  
Phone: (315) 475-1170  
Please call for hours of availability

Liverpool Public Library  
310 Tulip Street  
Liverpool, NY 13088  
Phone: (315) 457-0310  
Hours: M - Th, 9:00 a.m. - 9:00 p.m.;  
Fri, 9:00 a.m. - 6:00 p.m.;  
Sat, 10:00 a.m. - 5:00 p.m.;  
Sun, 12:00 p.m. - 5:00 p.m.

NYSDEC, Region 7\*  
615 Erie Blvd. West  
Syracuse, NY 13204  
Phone: (315) 426-7400  
Hours: M - Fri, 8:30 a.m. - 4:45 p.m.  
Please call for an appointment

Onondaga County Public Library  
Syracuse Branch at the Galleries  
447 South Salina Street  
Syracuse, NY 13204-2400  
Phone: (315) 435-1800  
Hours: M, Th, Fri, Sat, 9:00 a.m. - 5:00 p.m.; Tu, W, 9:00 a.m. - 8:30 p.m.

Moon Library  
SUNY ESF  
1 Forestry Drive  
Syracuse, NY 13210  
Phone: (315) 470-6712  
Hours: check <http://www.esf.edu/moonlib/>

Camillus Town Hall  
4600 West Genesee Street, Room 100  
Syracuse, NY 13219  
Hours: M-Fri, 8:30 a.m. - 4:30 p.m.  
Phone: (315) 488-1234

NYSDEC\*  
625 Broadway  
Albany, NY 12233-7016  
Phone: (518) 402-9767  
Hours: M - Fri, 8:30 a.m. - 4:45 p.m.  
Please call for an appointment

Detailed information on the Record of Decision, the proposed Consent Decree, the draft ESD, and the siting of the SCA and other aspects of the Onondaga Lake cleanup is also available online at <http://www.dec.state.ny.us/website/der/projects/ondlake/> on the NYSDEC website.

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**RESPONSIVENESS SUMMARY**

**ATTACHMENT 2**

**Letters and Oral Comments Submitted During the Public Comment Period,  
Including the October 19, 2006 Public Meeting Transcript**

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**November 13, 2006**

**BY US MAIL AND ELECTRONIC MAIL**

**Mr. Timothy Larson, P.E.**

**Onondaga Lake Superfund Site - Public Comments**

**New York State Department of Environmental Conservation**

**625 Broadway**

**Albany, NY 12233-7016**

**RE: Explanation of Significant Differences: Onondaga Lake Superfund Site**

**Dear Mr. Larson:**

Enclosed please find the comments of the Onondaga Nation concerning the above.  
Please feel free to contact me if you have any questions concerning this submission.

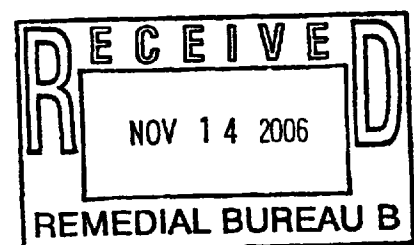
Very truly yours,

**DREYER BOYAJIAN LLP**



**Christopher A. Amato**  
**Of Counsel**

**cc: Onondaga Nation Council of Chiefs**  
**Joseph Heath, Esq.**







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## **Comments of the Onondaga Nation on the Proposed ESD for the Onondaga Lake Bottom Subsite**

The purpose of this document is to submit comments and questions on a proposed Explanation of Significant Differences (ESD) that was issued by the U.S. Environmental Protection Agency (EPA) and New York State Department of Environmental Conservation (NYSDEC) on October 12, 2006. The proposed ESD pertains to the Record of Decision (ROD) for the Onondaga Lake Bottom subsite, specifically, a section of Sediment Management Unit (SMU) 2 and a small part of SMU 1.

On behalf of the Onondaga Nation (the Nation), Stratus Consulting performed a review of documents associated with the proposed ESD that were made available to the Nation in August 2006, and that were subsequently posted at the NYSDEC website for Onondaga Lake (NYSDEC, 2006) at the time of the issuance of the proposed ESD. These include: (1) A technical support document for the proposed ESD prepared by Parsons for Honeywell, with two attachments; Attachment A: Boring logs, and Attachment B: Global Stability Analysis (Parsons, 2006); and (2) A summary of the proposed ESD (U.S. EPA, 2006). Stratus Consulting determined that the documents did not provide sufficient information to allow a complete evaluation of the new remedy described in the proposed ESD. As a result, in consultation with Stratus Consulting, the Nation then requested further information on the proposed ESD, in a letter addressed to the EPA, dated October 19, 2006 (Attachment A). The EPA responded in a letter dated October 31, 2006 (Attachment B). We have attached these letters so that they may become part of the administrative record for the Consent Decree.

We appreciate the EPA's prompt response, as well as the additional documentation pertaining to SMUs 2 and 1 provided in reply to some of the Nation's requests. However, the Nation has further comments and questions about a number of outstanding issues pertaining to the proposed ESD. These comments and questions are addressed here directly to NYSDEC so that they will also become a part of the administrative record for the Consent Decree.

The outstanding issues fall into five categories:

- ▶ EPA's and NYSDEC's justification that the proposed ESD constitutes only a significant – and not a fundamental – change to the remedy selected in the ROD
- ▶ Failure to consider adequately remedy alternatives that would not involve the loss of lake surface area
- ▶ The likely lessening of risk reduction provided by the new remedy compared with the remedy selected in the ROD

- ▶ The significant difference in non-aqueous phase liquid (NAPL) volume estimates in the ROD and the proposed ESD
  - ▶ Incomplete provision of relevant documents and data.
1. **EPA's and NYSDEC's justification that the proposed ESD constitutes only a significant – and not a fundamental – change to the remedy selected in the ROD**

The remedy selected in the ROD (NYSDEC and U.S. EPA, 2005) for the relevant portions of SMUs 2 and 1 involves removal of NAPL contamination and source material through dredging, whereas the remedy in the proposed ESD relies primarily upon in-place containment, with comparatively limited NAPL removal via extraction wells. According to the proposed ESD, the ROD remedy was rejected because dredging to the depths necessary to remove the NAPL could cause sediment instability, and the possible collapse of nearby infrastructure. In the letter dated October 19, 2006, the Nation requested that the EPA and NYSDEC justify their conclusion that the new remedy in the proposed ESD is a significant difference and not a fundamental alteration of the remedy selected in the 2005 ROD (Question 1 of Attachments A and B). The EPA responded that the proposed ESD focuses on only a portion of SMUs 2 and 1. The EPA pointed out that the pre-design investigation (PDI) conducted by Parsons for Honeywell determined that the extent of sediment contaminated with NAPL was considerably smaller than assumed in the remedy selected in the ROD, and based on this, the proposed ESD constitutes a change that affects only 6% of the total volume of sediments to be dredged from the Onondaga lake bottom. As a result, the EPA asserted that for the lake bottom as a whole, the principal components of the remedy (dredging, isolation capping, oxygenation in the profundal zone, etc.) were not fundamentally changed as a result of the proposed ESD.

## 2

### Comments

The argument that the proposed ESD does not constitute a fundamental change in the remedy selected in the ROD (because it represents a change affecting only 6% of the total volume of sediment to be dredged from the lake) is valid if:

1. The significantly lower volume of NAPL contamination determined in the PDI and reported in the proposed ESD is accurate
2. Remedial design does not continue to significantly alter other portions of the remedy for the rest of the Onondaga Lake Bottom subsite.

However, the proposed ESD could impact a significantly larger proportion of the total sediment volume to be dredged from the lake bottom if the findings of the PDI for SMUs 2 and 1 were not accurate. The ROD specified an area of approximately 4.8 acres to be dredged to a depth of about 30 ft, with a total volume of sediment to be removed of roughly 400,000 cubic yards (cy),

which was estimated to contain 232,000 cy of NAPL. Parsons (2006) states that, based on the PDI, the volume of NAPL in the subsurface is significantly less, only 5,000 cy, and is present mainly in a 1.6 ft thick layer that is 15-25 ft below the lake bottom, and extends a shorter distance into the lake. According to the EPA's response letter, the total volume of impacted sediment based on the PDI is 157,000 cy. This is less than half the volume of sediment estimated in the remedy selected in the ROD.

If the new estimates based on the PDI underestimate the volume of contaminated sediment, and the true extent of NAPL contamination is closer to the value assumed in the ROD, then the proposed ESD would fail to address significant contamination that could affect areas well beyond the immediate area addressed by the proposed ESD, and could affect far more than 6% of the remedy. Logs of the cores, collected during the PDI and indicating where NAPL was detected, were provided to the Nation. However, accompanying technical report(s) summarizing the results of the PDI (beyond the proposed ESD documents) were not provided. This makes an independent evaluation of the lower volume of impacted sediment difficult, despite the EPA's best efforts to answer the Nation's questions on this subject. Therefore, the Nation objects to the proposed ESD because NYSDEC has not provided sufficient documentation that the new NAPL estimates are accurate and reliable enough to justify a remedy less complete than specified in the ROD.

In addition, the justification for issuing an ESD rather than reissuing the ROD, based on relatively small percentages of total sediment dredging volumes is problematic because the rate of changes to the ROD is high even if most of the remedy has not yet been designed. That is, if other portions of the remedy are altered during design as much as the portion addressed in this proposed ESD, then the alterations to the ROD will clearly become fundamental. Therefore, the Nation will evaluate the cumulative effect of future alterations to the ROD caused by design, which may require that NYSDEC and EPA revisit the need to reissue the ROD, based in part on the changes currently handled by the proposed ESD.

**2. Failure to consider adequately remedy alternatives that would not involve the loss of lake surface area**

The new remedy in the proposed ESD would result in the loss of roughly 2 acres of Onondaga lake surface area. Although the proposed ESD states that this will be compensated by restoration activities in an area near the lake, the loss of any lake surface area is of particular concern to the Nation. Furthermore, EPA and NYSDEC identified prevention of lake surface losses as one of the key elements of the ROD (U.S. EPA, 2006).

**3****Comment**

Onondaga Lake provides unique and important ecological and recreational services to the general public, and critically important cultural services to the Nation. Therefore, the Nation believes that EPA and NYSDEC should allow changes to the ROD that permanently eliminate parts of the lake only as a last resort and only when public health and welfare cannot otherwise be protected. However, the EPA's response to our questions on this topic suggests that little effort was put into developing and evaluating alternatives that would preserve the lake surface area, and that the new remedy was perhaps chosen based on other factors, such as ease of implementation and cost.

**3. The likely lessening of risk reduction provided by the new remedy compared with the remedy selected in the ROD**

The remedy selected in the ROD for the relevant portions of SMUs 2 and 1 involves removal of NAPL contamination and source material through dredging, whereas the remedy in the proposed ESD relies primarily upon in-place containment, with comparatively limited NAPL removal via extraction wells.

**4****Comment**

The ROD-selected remedy is far preferred over the new remedy presented in the proposed ESD because the ROD remedy involves the removal of the NAPL contamination from the site, while the latter is largely based on containment, with comparatively little NAPL removal through extraction wells. Because it leaves NAPL in the subsurface, the new remedy described in the proposed ESD presents a higher risk of further exposure and contamination of the lake bottom.

The Nation's letter of October 19 presented many questions to the EPA on the new remedy, including requests for information regarding:

- ▶ The amount of NAPL that will be removed from the subsurface by the extraction wells, versus the amount that will be left in the subsurface (Question 27 of Attachments A and B)
- ▶ How residual NAPL that cannot be removed via pumping will be treated (Question 25 of Attachments A and B)
- ▶ The ability of the new remedy to successfully contain the NAPL during pumping, and the long-term containment of the residual (Questions 9, 17, 22 of Attachments A and B).

The EPA made an effort to answer these questions; however, not all of their answers were wholly satisfying. For example, they could not quantify the amount of NAPL that would be left in the subsurface as residual material (non-mobile, non-recoverable NAPL). The quantification of how much NAPL can be removed through pumping at any site is generally a difficult and challenging task, and EPA's inability to answer is hence not surprising. However, this illustrates why the new remedy is less favorable than the remedy selected in the ROD. Dredging physically removes the contamination, whereas any remedy that leaves the NAPL (or a portion of the NAPL) in the subsurface also represents a higher risk of further contamination and exposure.

It is also surprising that other alternatives involving NAPL removal/destruction were not considered or evaluated further. These include recent developments of in situ treatment methods, such as enhanced biodegradation or the use of granular iron materials. The concern that such methods may be unproven in the field [according to Parsons (2004) in situ treatment methods were rejected for that reason in the feasibility study (FS)] is insufficient reason for rejection, particularly since pilot studies are being used in other parts of the ROD to test new treatment methods (e.g., oxygenation of the profundal zone) and the remedy proposed in the ESD includes so many negative aspects, including loss of lake area and retainment of NAPL contamination in the subsurface.

**4. The significant difference in NAPL volume estimates in the ROD and the proposed ESD**

The estimated volume of NAPL in the proposed ESD of 5,000 cy is significantly less than the 232,000 cy estimate of the ROD.

**Comment**

**5**

The accuracy of the lower estimate is critical, as it is central to the EPA and NYSDEC's justification that the changes to the remedy remain protective and constitute an ESD rather than an amendment to the ROD. The Nation's October 19, 2006 letter to the EPA asked questions about how these volumes were determined, and requested detailed technical documentation from Honeywell, NYSDEC, and the EPA regarding the estimates of NAPL volumes in the sediments and subsurface at SMU 2 and SMU 1. The EPA provided answers to these questions, and referred to reports, which the Nation had already acquired, including the FS, the ROD, and proposed ESD. However, (a) technical report(s) detailing the results of the PDI and other relevant studies performed for Honeywell in the area were not provided. Copies of such reports should be made available to the Nation. While the Nation appreciates the EPA's responsiveness to questions on these topics, the Nation should be provided the opportunity to independently review all relevant documents.



**6****5. Incomplete provision of relevant documents and data**

The EPA and NYSDEC have made many documents pertaining to the Onondaga Lake Bottom subsite available to the Nation. However, it is also clear that, as mentioned in (1) and (4), copies of many of the technical reports produced by Honeywell and its subcontractors have not been provided to the Nation. The Nation should have direct access to the full contents of all reports pertaining to the site so that a complete evaluation is practical.

**References**

NYSDEC. 2006. Consent Decree: Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site, Syracuse, New York. New York State Department of Environmental Conservation. Available: <http://www.dec.state.ny.us/website/der/projects/ondlake/>. Accessed 10/13/2006.

NYSDEC and U.S. EPA. 2005. Record of Decision – Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site Towns of Geddes and Salina, Villages of Solvay and Liverpool, and City of Syracuse, Onondaga County, New York. New York State Department of Environmental Conservation and U.S. Environmental Protection Agency, Region 2. July.

Parsons. 2004. Onondaga Lake Feasibility Study Report – Volume I. Prepared for Honeywell, Morristown, NJ. November.

Parsons. 2006. Onondaga Lake: Technical Report Document for Proposed Explanation of Significant Differences. Prepared for Honeywell, Morristown, NY.

U.S. EPA. 2006. Summary of Proposed Explanation of Significant Differences – Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site. Towns of Geddes and Salina, Villages of Solvay and Liverpool, and City of Syracuse, Onondaga County, NY.

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**Attachment A. October 19, 2006 Letter from the Onondaga Nation's Legal  
Counsel to the EPA**

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October 19, 2006

**Via Email and Overnight Mail**

George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007

**RE: Proposed Explanation of Significant Differences for SMU-1 and SMU-2**

Dear Mr. Shanahan:

As you know, this firm is environmental counsel to the Onondaga Nation ("Nation"). At a meeting held on August 23, 2006, the Nation was informed that EPA and DEC were considering a proposed Explanation of Significant Differences ("ESD") for the Record of Decision (ROD) Remedy selected for the Onondaga Lake Bottom subsite. The proposed ESD concerned Sediment Management Unit ("SMU") 2 and a small part of SMU 1. Unfortunately, the Nation was provided with little specific information at the August 23 meeting concerning the technical and scientific justification for the proposed ESD.

The proposed ESD was formally issued by EPA and DEC on October 12, 2006. EPA has informed the Nation that it will be given sixty (60) days in which to submit comments on the proposed ESD. We have reviewed the proposed ESD with our consultants, Stratus Consulting, Inc., and it is our conclusion that the Nation cannot provide meaningful comments on the proposed ESD unless substantial additional information is provided as set forth below. Given the rapidly approaching deadline for submission of comments, the Nation requests that EPA provide its response to the questions and document requests below as expeditiously as possible.

**Development of the Proposed New Remedy**

In the proposed new remedy, the barrier wall would be placed just beyond the furthest delineation of the subsurface NAPL contamination (somewhere closer to shore than 50 ft, which is the extent of NAPL estimated in the ROD). The barrier wall would be tied into an underlying clay layer. The proposed new remedy does not include any dredging to remove NAPL. Instead,

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

NAPL would be removed through pumping with extraction wells placed between the barrier wall and the current shoreline. The remedy selected in the ROD was removal of contamination and source material through dredging, whereas the remedy in the proposed ESD is primarily in-place containment (with comparatively limited NAPL removal via extraction wells). However, in the recent public release (NYSDEC, 2006) of the proposed ESD, the EPA stated that it has been "determined that the revision to the remedy does not constitute a fundamental alteration of the remedy selected in the 2005 ROD" (U.S. EPA, 2006).

Questions

1. How do the EPA and DEC justify their conclusion that the new remedy in the proposed ESD is not a fundamental alteration of the remedy selected in the 2005 ROD?
2. What was the process for developing the proposed new remedy?
3. Was an analysis of the proposed new remedy conducted at the same level of detail as the alternatives in the FS?
4. How does the proposed new remedy compare to the other remedial alternatives that were evaluated in the FS in terms of remedial action evaluation criteria (*i.e.*, protectiveness of human health and environment, compliance with ARARs, implementability, long-term effectiveness, short-term effectiveness, reduction of toxicity, mobility or volume, cost, and community acceptance)?
5. Were other remedial alternatives considered for the proposed ESD, and if so, what were they and why were they rejected?

Requests

1. Please provide all documentation that led to the conclusion that the new remedy in the proposed ESD does not constitute a fundamental alteration to the remedy selected in the 2005 ROD.
2. Please provide all of the supporting technical data, documentation, reports, correspondence, and evaluations that were conducted to determine that the proposed new remedy is the appropriate remedy for SMU 2 and SMU 1.

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

In addition, the proposed new remedy also calls for backfilling in front of (*i.e.*, shoreward of) the barrier wall, effectively extending the shoreline out to the wall (resulting in a loss of lake surface area) to isolate the NAPL from contact with the lake. The other dredging and capping and related remedial activities required in the ROD for SMU 2 and SMU 1 would be implemented as specified in the ROD. However, the proposed new remedy is not one of the options presented in the 2004 Feasibility Study for the Lake bottom, nor does it appear that other dredging options (such as partial dredging) were considered. Moreover, the proposed alternative will leave NAPL in the subsurface and does not address the removal of residual NAPL in the sediments. Similarly, the proposed ESD does not consider NAPL contamination of groundwater through residual or dissolved phase NAPL.

#### Questions

6. Prior to the development of the ESD-proposed new remedy, were the other options in the FS considered after it was determined that the ROD remedy could not be implemented? If not, why?
7. What is the maximum amount of sediment and NAPL dredging that can be conducted without causing instability in the barrier wall?
8. What other construction or dredging operations that would cause less instability than the operations as defined in the ROD were considered before the ROD remedy was rejected?
9. What is the evidence that the clay unit is fully confining? The rejection of the option of building a stronger barrier wall was rejected in part because of the assumption that the clay unit is in fact fully confining under current and future conditions. In addition, the long-term effectiveness of the in-place containment remedy that is proposed in the ESD is dependent on a fully confining clay unit. Justification should be provided demonstrating that the clay unit is fully confining and has no fractures or pinches.
10. How will the proposed new remedy address contamination in the dissolved phase?

#### Requests

3. Please provide copies of any technical documents (*e.g.*, reports, memoranda, etc.) that accompanied such a re-evaluation of FS alternatives if it occurred.



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Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

4. The geotechnical document provided to the Nation appears to be a summary report (Parsons, 2006, Attachment B). If there are more detailed technical reports on the stability analysis and accompanying data, they should be made available to the Nation.
5. Please provide all documents, memoranda, reports, data, etc. pertaining to analysis of the confining clay layer and predictions of the volume of residual NAPL left in the subsurface after completion of pumping.
6. Please provide data and technical documentation related to how the proposed new remedy will address contamination in the dissolved phase.

#### **Reported Lower Volume of NAPL Contamination**

The proposed ESD states that there are approximately 5,000 cy of NAPL in the subsurface instead of the 232,000 cy estimated in the ROD. According to Parsons (2006), the NAPL underneath the lake is mainly in an approximately 1.6 ft thick layer that is 15-25 ft below the lake bottom and extends a shorter distance into the lake than assumed in the ROD. During the investigation, NAPL was also discovered to extend approximately 300 ft into SMU 1, where previously it had been estimated that NAPL was not present. In another significant deviation from the ROD, the proposed ESD estimates that NAPL covers an area of 2 acres, whereas the ROD estimated it to cover an area of 4.8 acres.

#### **Questions**

11. What methods were used to estimate the two different NAPL volumes?
12. What assumptions were used in each of the two estimates, and what is the evidence that the assumptions used for the ROD are incorrect and those used in the proposed ESD are correct?
13. The proposed ESD documents state that the cores were analyzed for NAPL by "visual analysis." What does this mean? Were analytical techniques used to analyze the cores, and if so, what techniques?
14. Was only "free phase" NAPL in the pores of the sediments identified, or were tests performed to identify NAPL contaminants adsorbed to the soil/sediment?

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

15. What method was used to determine the presence of NAPL for the ROD estimate of 232,000 cy of NAPL?
16. How was it determined that contamination does not extend beyond the maximum core depth of 42 ft (the maximum depth of the cores)?
17. Was there any evidence for cracks/fractures in the clay, and NAPL migration through the clay?

**Requests**

7. Please provide detailed technical documentation regarding the estimates of NAPL and NAPL contaminants in the sediments and subsurface at SMU 2 and SMU 1.
8. Please provide all documentation describing how the NAPL extent was delineated.

The significantly smaller volume of the revised NAPL volume estimate was attributed to the lower-than-expected permeability of the fine silt layer, commonly referred to as the marl unit. The proposed ESD also states that "non-pooled NAPL," which is described as discontinuous thin layers of NAPL between 0.5 to 5cm thick, is present in some of the sediment cores. If true, these more localized areas of NAPL can be harder to detect and quantify, and the ESD estimate of NAPL volume may underestimate the true volume.

**Questions**

18. How did the low permeability cause a reduction in the NAPL volume estimates?
19. How was permeability of the marl unit estimated for the proposed ESD? How was it estimated for the ROD?
20. What is the definition of the terms "pooled NAPL" and "non-pooled NAPL" as used throughout the proposed ESD, and how are the two types of NAPL identified and distinguished from each other? How is the distinction used in the revised estimate of NAPL volume?

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

21. What assumptions are made as to the extractability of "pooled" and "non-pooled" NAPL by extraction wells in the proposed new remedy?

**Requests**

9. Please provide the technical documentation and data used to make these determinations.
10. Please provide copies of all data collected during the pre-design stage pertaining to the permeability of the marl unit. Pumping data, or the technical reasoning to proceed with the pre-design stage without it, should also be provided.

**Extraction Wells**

As discussed *supra*, the proposed new remedy utilizes extraction wells to remove NAPL from the subsurface. In addition to the Nation's concerns about possible residual and groundwater contamination, we also question the efficacy and feasibility of the wells and the pumps used by the wells.

**Questions**

22. What kinds of studies/data will be collected in order to delineate the hydrology of the site, and the placement of wells in order to adequately capture all of the contamination, including any dissolved phase plume?
23. What will be the criteria for turning off pumps?
24. What criteria will be used to determine when all the mobile NAPL in the sediments *and* whatever remains in the upland source and pathway has been extracted?
25. How will residual NAPL (non-mobile NAPL that can not be removed through pumping) be treated?
26. What kind of monitoring will be employed to ensure that the NAPL and any dissolved plume is being captured, and that the wells are functioning properly?

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

27. How much residual NAPL will be left in the subsurface after the extraction wells are shut down?


Requests

11. Please provide all documents concerning or relating to the effectiveness of the extraction wells and an explanation of the design of the extraction well system.

Please give me a call if you have any questions concerning this request for additional information.

Very truly yours,

DREYER BOYAJIAN LLP

  
Christopher A. Amato  
Of Counsel

CAA/kmc

cc: Onondaga Nation Council of Chiefs

Joseph J. Heath, Esq.  
716 East Washington Street  
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Robert Nunes, P.E. (Via Email and Overnight Mail)  
U.S. Environmental Protection Agency  
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290 Broadway  
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**N-1**

Letter to George Shanahan, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
October 19, 2006

Kenneth Lynch (Via Email and Overnight Mail)  
Regional Director  
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Timothy Larson, P.E. (Via Overnight Mail)  
New York State Department of  
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625 Broadway  
Albany, NY 12233-7016

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**Attachment B. October 31, 2006 Response Letter from the EPA to the  
Onondaga Nation's Legal Counsel**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

N-1

By Fax and 1<sup>st</sup> Class Mail

October 31, 2006

Christopher A. Amato, Esq.  
Dreyer Boyajian LLP  
75 Columbia Street  
Albany, NY 12210

Re: Proposed Explanation of Significant Differences ("ESD") for SMU 1 and SMU 2  
Onondaga Lake Bottom Subsite, Onondaga Lake Superfund Site, Onondaga County,  
New York

Dear Mr. Amato:

This letter is written in response to your letter to the Environmental Protection Agency ("EPA") dated October 19, 2006. In your letter you set forth a series of questions and requests for information concerning the above-referenced matter. I have enclosed with this letter responses to your questions and requests.

While EPA discussed these responses with the New York State Department of Environmental Conservation ("DEC"), it should be noted that these responses are EPA's responses, not DEC's. EPA's responses were prepared in the context established during our ongoing consultation with the Onondaga Nation and the meeting held on August 23, 2006 concerning this matter. At that meeting, EPA representatives informed counsel for the Onondaga Nation that EPA would receive comments from the Nation concerning the proposed Explanation of Significant Differences ("ESD") for a period of 30 days, in addition to the public comment period of 30 days that the State of New York intended to establish pursuant to its notice of the Consent Decree between the State and Honeywell International, Inc. ("Honeywell"), before EPA would make its final decision concerning the proposed ESD.

As we have discussed on numerous occasions, EPA is not a party to the legal proceedings concerning the Consent Decree between the State and Honeywell, and EPA's ongoing discussions with representatives of the Nation concerning the proposed ESD is independent of the Consent Decree proceedings. For this reason, if the Nation wishes that your October 19, 2006 letter on its behalf be made part of the administrative record with respect to the Consent Decree, that intent should be communicated directly by the Nation to Carol Conyers of DEC or Assistant New York State Attorney General Norman Spiegel. It should also be clear that EPA's responses below to your October 19, 2006 letter will not be part of the record before the U.S.


District Court concerning the Consent Decree. Any comments that the Nation has with respect to the Consent Decree, or the proposed ESD as it relates to the Consent Decree, that it wants to become part of the record for the Consent Decree must be separately submitted to the State in the context of the procedures set forth for the Consent Decree, and in accordance with the schedule for submission of comments by November 13, 2006.

EPA will remain available to discuss these matters with the Nation and its representatives for a period of 30 days beyond the State comment period (*i.e.*, until December 13, 2006) before it will make a final decision concerning the proposed ESD. EPA will, of course, continue its consultation with the Nation concerning Onondaga Lake matters even after a final decision is made with respect to the proposed ESD.

As referenced in the enclosure, many of the documents requested by the Nation have previously been submitted to the Nation. This afternoon, Robert Nunes sent an e-mail attaching a document referenced in the enclosure in electronic file format to you and your consultant. There are other documents available only in hard copy or on CD. Copies of these documents have been sent to you and to your consultant (at the name and address you provided) by overnight delivery.

Please feel free to call me to discuss this matter if you have any questions.

Sincerely,



George A. Shanahan  
Assistant Regional Counsel  
New York/Caribbean Superfund Branch

Enclosure

cc: Joseph Heath, Esq.  
Kenneth Lynch, NYSDEC  
Donald Hesler, NYSDEC  
Carol Conyers, Esq, NYSDEC  
Kaylene Ritter, PhD.

## Questions

### 1. How do the EPA and DEC justify their conclusion that the new remedy in the proposed ESD is not a fundamental alteration of the remedy selected in the 2005 ROD?

Response: DEC and EPA determined that the revision to the selected remedy in the July 1, 2005 Lake Bottom ROD is a significant, rather than a fundamental change for the following two reasons.

First, the principal components of the remedy (*i.e.*, dredging and isolation capping in the littoral zone to prevent loss of lake surface area, for erosion protection and to reestablish habitat, and to remove sediments and/or wastes from the portion of the in-lake-waste-deposit ["ILWD"], and thin-layer capping and the performance of an oxygenation pilot in the profundal zone to reduce contaminant concentrations in the upper layer of sediments and to reduce the formation of methylmercury in the water column) have not been fundamentally changed. As a remedy progresses from the selection of the remedy in a Record of Decision ("ROD") to the design of the remedy, changes to the remedy are often made to reflect additional information obtained as part of the design process. Here, the remedy as proposed to be modified by the Explanation of Significant Differences ("ESD") still focuses on dredging and isolation capping in the littoral zone, but also responds to pre-design data indicating that the extent of pooled non-aqueous phase liquids ("NAPLs") is significantly less than had been estimated in the ROD. While, as proposed in the draft ESD, there would be the loss of approximately two acres of aquatic habitat in the lake in the Sediment Management Unit ("SMU") 2 causeway area and a small adjacent area of SMU 1 due to the isolation of contamination behind a barrier wall coupled with NAPL removal by extraction wells, as opposed to the dredging in this area as was envisioned in the ROD; under the proposed ESD, replacement of the lost aquatic habitat would be investigated and implemented in an upland area adjacent to the lake to mitigate for the loss. The remedy, as proposed to be modified with the proposed ESD would still require the capture and treatment of the pooled NAPLs as a significant component of the remedy. Pursuant to the proposed ESD, pooled NAPLs would be collected by extraction wells as opposed to dredging. The treatment of collected NAPLs off-site would not change under the proposed ESD.

Secondly, based on information obtained during the preliminary design investigation on the extent of pooled NAPLs present in the lake, the change in the volume of sediments to be dredged from the lake is a small percentage relative to the total volume (*i.e.*, approximately 6 percent<sup>1</sup>). It should also be noted that while the change to the remedy would be addressed via an ESD rather than an amended ROD, the principal administrative and public participation requirements associated with the issuance of an amended ROD (*e.g.*, 30-day public comment period following the release of the notice of the change, the holding of a public meeting, and the generation of a responsiveness summary following receipt and review of public comments) are being conducted.

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<sup>1</sup> The total volume of sediment originally to be dredged, pursuant to the ROD, was an estimated 2,653,000 cubic yards (cy). The volume behind the proposed barrier wall location, which would no longer be dredged pursuant to the proposed ESD, is an estimated 157,000 cy or approximately 6 percent of the total ROD volume.

**2. What was the process for developing the proposed new remedy?**

Response: DEC and Honeywell entered into an administrative order on consent ("AOC") on April 16, 2002 for Honeywell to construct a barrier wall and groundwater collection system at the shore of the lake downgradient of the Semet Residue Ponds and Willis Avenue Subsites. During the design, it was determined that, due to the presence of utilities, the barrier wall would need to be constructed on the lake side (and within 15 to 20 feet) of the causeway. In addition, on August 19, 2005, DEC and Honeywell entered into another AOC for Honeywell to conduct a pre-design investigation ("PDI") to develop technical information for the implementation of the Lake Bottom remedy set forth in the ROD. After Honeywell had taken lake sediment cores pursuant to the PDI, Honeywell and DEC evaluated the data from this investigation. Based upon this review, DEC requested that additional data be collected to delineate the extent of NAPLs in the shallow geologic units (above the clay layer) and to determine the presence or absence of pooled NAPLs in the deep geologic units (beneath the clay) in the lake in the vicinity of the causeway. This investigation showed that no pooled NAPLs were found below the clay unit which acts as a confining layer. The investigation identified the presence of pooled NAPLs above the clay unit in a portion of SMU 1 as well as near the causeway in SMU 2. As will be discussed in the response to question # 4, below, the results of recent geotechnical stability evaluations indicate that the barrier wall in the vicinity of the causeway would have to be installed in the lake at a distance greater than 20 feet from the shoreline. As a result of the geotechnical stability concerns and the PDI data, the alignment of the causeway component of the barrier wall was modified (as propounded in the proposed ESD) to address the stability concerns and to contain the areas of pooled NAPLs in SMU 2 and a portion of SMU 1 where pooled NAPLs were found. The modification also included additional pooled NAPLs collection wells between the existing shoreline and the proposed barrier alignment, and on the northwestern area of the Wastedbed B/Harbor Brook to enhance the recovery of pooled NAPLs present in the subsurface.

**3. Was an analysis of the proposed new remedy conducted at the same level of detail as the alternatives in the FS?**

Response: No. The candidate remedies in the feasibility study ("FS") that were carried through to the final analysis of alternatives for the ROD all have the same implementability problem associated with geotechnical stability concerns (where the remedies include deep dredging in the proximity of the causeway, etc.) in the causeway area of SMU 2. The proposed modified remedy was determined to be protective of human health and the environment, implementable, and capable of meeting State and federal regulatory requirements, as described in the response to Question #4, below.

**4. How does the proposed new remedy compare to the other remedial alternatives that were evaluated in the FS in terms of remedial action evaluation criteria (i.e., protectiveness of human health and the environment, compliance with ARARs, implementability, long-term effectiveness, short-term effectiveness, reduction of toxicity, mobility or volume, cost,**

and community acceptance)?

Response: Based upon the results of the PDI, it has been determined that there would be implementability problems associated with all of the alternatives in the FS report with respect to the alignment of the barrier wall, with the exception of Lakewide Alternative B, "Cap with Targeted Dredging." Lakewide Alternative B includes no dredging to address pooled NAPLs. Implementation of this alternative would leave pooled NAPLs remaining in the lake beneath the isolation cap. This alternative was not carried forward into the Proposed Plan and ROD, as it was not considered to be sufficiently protective of human health and the environment and it would not comply with ARARs. All the other alternatives in the FS report included targeted dredging at depths ranging from 4 to 9 meters in SMU 2 to address pooled NAPLs. Slope stability evaluations indicated that dredging beyond 2 meters in SMU 2 would not meet acceptable safety factors with the barrier wall aligned only 20 feet offshore. Therefore, all of the remedial alternatives that were carried forward into the Proposed Plan and ROD would require modification such that the installation of the barrier wall would be at a distance greater than 20 feet offshore.

The ROD determined (at p. 61) that Alternatives 2 through 6 would be equally protective of human health and the environment. The modification of the selected remedy (Alternative 4), as proposed by the proposed ESD, would not alter the analysis of this criterion in the ROD.

With respect to compliance with ARARs, the modified remedy would not significantly affect the analysis provided in the ROD (at pp. 62-64). All of the action alternatives in the FS report would provide protection of human health and the environment and would require some degree of dredging and capping of sediments. All of the action alternatives would have effects on navigable waters and floodplains. There is no practicable alternative to the installation of the barrier wall into the lake waters. As stated in Appendix V to the ROD (Appendix V, at p.4), the sediments and the lake bottom that will be addressed by the remediation are already compromised by the existing contamination. This is particularly the case in SMUs 1 and 2. The lakewide habitat restoration plan will address replacement resources for the two acres of aquatic habitat that would be lost as a result of the proposed modification to the remedy. Habitat replacement (compensatory mitigation) in an upland area adjacent to the lake would offset the two acres that would be lost with the modified remedy. The isolation of contaminated sediments behind the barrier wall coupled with extraction of NAPL would remediate the landward area behind the wall and obviate potential impacts to other parts of the lake.

The remedy as modified in the proposed ESD would not have the same implementability problems (discussed above) associated with the other alternatives considered in the ROD.

With respect to long-term effectiveness and permanence, the conclusion in the ROD that Alternatives 6 and 7 would provide the greatest long-term effectiveness and permanence would not be changed. The selected remedy, as proposed to be modified in the proposed ESD, would still require the removal and treatment of NAPLs and the contaminated groundwater contained

by the barrier wall. The containment of contaminated sediments behind the barrier wall would ensure the long-term chemical isolation of contaminants from the lake waters coupled with removal of the contaminants by extraction wells.

With respect to short-term effectiveness, the proposed modified remedy would present less short-term impacts due to a decrease in the amount of traffic associated with dredging, but would present additional impacts associated with backfilling behind the barrier wall. Short-term impacts can be mitigated through various engineering means that would be evaluated and selected during the remedial design. The time to implement the modified alternative is expected to be the same as the time to implement the selected alternative in the ROD without modification (four years).

The proposed modified remedy would significantly reduce toxicity, mobility, and volume through the collection and treatment of NAPLs. The potential for mobility of contaminants to be encapsulated behind the barrier wall would also be reduced, but this reduction in mobility would not be accomplished through treatment.

It is anticipated that the cost of the proposed modified remedy would be reduced due to the reduction in volume of sediments to be dredged. The anticipated cost reductions have not been calculated at this time since there would also be cost increases attributable to the construction of the barrier wall further into the lake waters, the construction, operation and maintenance of additional NAPL collection wells, and the need for increased backfilling behind the barrier wall. There would also be increased costs associated with the need for mitigation (replacement) of aquatic habitat that would be lost behind the barrier wall.

Community acceptance will be assessed by evaluating the comments received at the October 19, 2006 public meeting and written comments received during the comment period which ends on November 13, 2006.

**5. Were other remedial alternatives considered for the proposed ESD, and if so, what were they and why were they rejected?**

Response: As other viable remedial alternatives were not identified, none were considered for the proposed ESD. Also, see response to Question # 8.

**6. Prior to the development of the draft ESD-proposed new remedy, were the other options in the FS considered after it was determined that the ROD remedy could not be implemented? If not, why not?**

Response: See response to Question # 4.

**7. What is the maximum amount of sediment and NAPL dredging that can be conducted without causing instability in the barrier wall?**



Response: As discussed in the Global Stability Analysis (MRCE), August 8, 2006, which is Attachment B of the Technical Support Document (TSD), the stability analysis predicts that the causeway Profile A can sustain about 2 meters of dredging in SMU 2 with the barrier wall located 20 feet off-shore of the causeway and Profile B just east of the causeway can sustain about 4 meters of dredging in SMU 1 with the barrier wall located at the shoreline. It is predicted that dredging to greater depths would result in unacceptable global factors of safety below 1.3. Figure 5 of the Global Stability Analysis illustrates the change in factor of safety with increasing dredge depths. Thus, as indicated in the proposed ESD, the stability evaluation indicated that the barrier wall and adjacent upland area would be potentially unstable and could collapse during dredging to the depth required to remove the NAPLs as called for in the ROD. These predicted maximum amounts of dredging are much less than the depths of dredging required to remove pooled NAPLs in SMU 2 (7.5 meters) and SMU 1 (6.7 meters).

**8. What other construction or dredging operations that would cause less instability than the operations as defined in the ROD were considered before the ROD remedy was rejected?**

Response: Initial consideration was given to a dredging technology developed by Seaway Environmental Technologies, Inc. referred to as the Mobile Containment Technology ("MCT"). MCT is based on the concept of controlled dredging within the confines of a specially-fabricated mobile containment vessel. The containment vessel, which can be deployed at a cleanup site, contains vertical barrier walls in the form of sheet piles that can be lowered from the vessel to set up a secure containment area in which sediment dispersed during the dredging process is contained. This technology appears to offer some advantages over conventional mechanical dredging techniques, including the ability to dredge sediments near in-water structures, such as bridges, dams, and cofferdams, where slope stability issues may be a concern.

While the MCT is potentially appropriate for a number of applications, the technology was not considered suitable to address the removal of NAPLs in the lake in accordance with the ROD. MCT is an innovative method, which has never been employed in an environmental dredging project. Therefore, there is very little information available to assess its implementability and effectiveness for any sediment remediation projects, let alone one as challenging as dredging in the conditions and at the depths needed to remove NAPLs in the portion of the lake addressed by the proposed ESD. Since MCT is untested in conditions like those in the lake, it would be imperative to conduct a pilot project to determine its practicability for adaptation to the Lake Bottom remediation. Such a pilot project would delay the installation of the barrier wall and the containment of groundwater contamination from the upgradient Semet Residue Ponds and Willis Avenue Subsites. The containment of the contaminated groundwater from these subsites is essential to eliminate an ongoing source of contaminants to the lake. Groundwater containment from the upland sources is also a prerequisite for the remediation of the Lake Bottom in SMU 1 and SMU 2. In addition, the slope stability analysis conducted for the southwestern area of the lake determined that factors-of-safety for slope stability acceptable to the Federal Highway Administration would not be achieved

if one were to dredge to a depth beyond two meters in the causeway area with a barrier wall alignment at 20 feet offshore, or four meters in the adjacent area in SMU 1 with a barrier wall aligned at the shoreline. In order to implement the required dredging for the removal of NAPLs, while maintaining the current barrier wall alignment, Honeywell, DEC, and EPA would need to commit to undertaking this dredging with the MCT approach. DEC and EPA believe that making such a commitment to this untested technology to dredge for NAPLs at this time would impose severe limitations on the flexibility of the dredging operations which have yet to be designed and could result in the inability to implement the remedy in this area of the lake. As a result of these implementability and feasibility concerns, MCT was not further considered to address dredging requirements for NAPLs as called for in the ROD.

**9. What is the evidence that the clay unit is fully confining? The rejection of the option of building a stronger barrier wall was rejected in part because of the assumption that the clay unit is in fact fully confining under current and future conditions. In addition, the long-term effectiveness of the in-place containment remedy that is proposed in the draft ESD is dependent upon a fully confining clay unit. Justification should be provided demonstrating that the clay unit is fully confining and has no fractures or pinches.**

Response: As part of the PDI, eight borings were advanced (seven in the lake along the causeway and one on land, just west of the causeway) through the clay into till to evaluate the potential for NAPL migration through the clay as a result of the concrete-filled pilings that support the causeway. Observations made of the clay in split-spoons collected during this work and from cores in the vicinity as part of the PDI (see work plans noted in response to Request #5) indicate that the clay is relatively plastic, and would therefore not be expected to be fractured. Additionally, as indicated in the boring logs, the clay is relatively thick (on the order of 20 to 30 feet) near the causeway and lakeshore area. A summary of the deep boring results provided in Attachment A of the TSD are highlighted as follows:

- OL-STA-20025: NAPL saturated lenses were observed at about a depth of 20 feet at the base of the Solvay waste and top of marl (a corresponding photoionization detector ["PID"] reading of 3,000 ppm); NAPL was not observed and PID readings were 0 ppm (with the exception of readings of 0.4 and 0.3 ppm at depths of 60 to 64 feet) through the clay and silt down to till at a depth of 84 feet.
- OL-STA-20026: A NAPL-saturated zone was observed at about a depth of 18 feet at the base of the Solvay waste and top of marl (a corresponding PID reading of 1,500 ppm); NAPL was not observed and PID readings were 0 ppm through the clay, silt, and sand-gravel down to till at a depth of 91 feet.
- OL-STA-20027: Pooled or saturated NAPLs were not observed in the silts, Solvay waste, and marl; isolated NAPL stringers and globules were observed in Solvay waste from depths of 8 to 15 feet; NAPL was not observed and PID readings were 0 ppm through the clay, silt, and sand-gravel down to till at a depth of 94 feet.

- OL-STA-20028: Pooled (saturated) or isolated NAPLs were not observed in the silts, Solvay waste, and marl; NAPL was also not observed and PID readings were 0 ppm through the clay, silt, and sand-gravel down to till at a depth of 99 feet.
- OL-STA-20029: Pooled (saturated) or isolated NAPLs were not observed in the silts and marl; NAPL was also not observed through the clay, silt, and sand-gravel down to till at a depth of 100 feet.
- OL-STA-20030: A NAPL seam was observed in marl at a depth of about 32 feet; NAPL was not observed and PID readings below the NAPL seam were 0 ppm (with the exception of a reading of 2.2 ppm at a depth of 85 feet) through the clay, silt, and sand-gravel down to till at a depth of 101 feet.
- OL-STA-20031 (on land, just west of the causeway): Pooled (saturated) or isolated NAPLs were not observed and PID readings were 0 ppm in the marl, clay, and sand-gravel down to till at a depth of 113 feet.
- OL-STA-20032: Pooled (saturated) or isolated NAPLs were not observed and PID readings were 0 ppm in the marl, clay, and sand-gravel down to till at a depth of 101 feet.

Geotechnical test results from Phase 1 of the PDI indicate that there is a high clay content and that the clay unit has a high plasticity index. Geotechnical results of samples collected during Phase 2 of the PDI are expected to agree with these Phase 1 results, as visual observations made during Phase 2 were consistent with those made during Phase 1.

#### 10. How will the proposed remedy address contamination in the dissolved phase?

Response: Under the proposed ESD, there is essentially no change in how contaminated groundwater and NAPLs would be contained by the barrier wall and groundwater collection system, which continues to form part of the Willis Avenue/Semet Tar Beds Interim Remedial Measure. In other words, although the proposed ESD contemplates a new location or alignment of the Willis Avenue portion of the barrier wall along SMU 2 and part of SMU 1, a barrier wall coupled with a groundwater collection system remains the mechanism for addressing dissolved contamination. Groundwater would be collected (to maintain the appropriate "inward" hydraulic gradient) in sumps and pumped to the groundwater treatment plant. The treatment plant, which will treat the collected groundwater, was approved for the Semet portion of the barrier wall and constructed in 2005 and is located at the Willis Avenue Site. The plant will treat the collected groundwater to discharge limits specified by the DEC. The treated water will be discharged to Onondaga Lake. *See generally, Administrative Consent Order D7-0004-01-09 (Willis Ave./Semet Tar Beds IRM), including Appendix B Scope of Work; and IRM Work Plan for the Willis Avenue/Semet Tar Beds Site (January 2003), Revised May 2003\*\*\*\*.*

Note that the Semet portion (located to the west of the causeway) of the barrier wall/collection system is not the subject of the proposed ESD. Construction of this portion of the system commenced in October 2006 pursuant to the Final Request for Proposal (RFP) Package Willis Avenue/Semet Tar Beds Sites IRM, Syracuse, NY\*\*\*\*; *Work Plan, Semet Tar Beds Site Interim Remedial Measure (IRM)*\*\*\*\*; and *Record and IFC Drawings and Specifications, Willis Avenue/Semet Tar Beds Site Groundwater Pump Station and Groundwater Treatment Plant, Town of Geddes, New York*, each dated October 2006\*\*\*\*.

**11. What methods were used to estimate the two different [ROD and ESD] NAPL volumes?**

See the response to Question 12.

**12. What assumptions were used in each of the two estimates, and what is the evidence that the assumptions used for the ROD are incorrect and those in the proposed ESD are correct?**

The ROD estimate (as developed in the FS) was based on the approximate extent of the NAPL recovery system on shore along the SMU 2 shoreline (length of 873 feet and depth of 30 feet). Based on in-lake data at that time, the geometry of the geologic layers was extrapolated offshore based on the onshore configurations of these layers or stratigraphic units (which were relatively well known due to the numerous borings along the lakeshore). It was assumed this on-shore NAPL plume would extend out into the lake a distance of approximately 240 feet from the causeway. The extent of the pooled NAPL removal area assumed in the FS and ROD (about 4.8 acres) is indicated by the purple dashed line in ESD Figure 3 and TSD Figure 1. See also Section E.2.5, Table E.10, and Figure E.5 in Appendix E of the Onondaga Lake FS (Parsons, 2004).

The revised NAPL volume estimate is based on field data collected as part of the pre-design investigation to more accurately define the extent of NAPLs in this area. These new data show that the Site conditions and contaminant distribution are significantly different than were previously thought in SMU 2 along the causeway, and an adjacent area in SMU 1. Based on data collected during the Spring 2006 investigation, it was determined that the pooled NAPLs extend over an area of approximately 2 acres which includes the causeway area in SMU 2, and an adjacent portion of SMU 1. It was also determined that the average thickness of the pooled NAPLs was less than 2 feet, significantly less than the 30-foot thickness of NAPLs conservatively assumed in the FS/ROD. The NAPL volume in the proposed ESD is a more realistic estimate as it is based on the results of the extensive NAPL delineation program that was performed since the issuance of the ROD.

**13. The proposed ESD documents state that the cores were analyzed for NAPL by "visual analysis." What does this mean? Were analytical techniques used to analyze the cores, and if so, what techniques?**

Response: Both visual and sediment chemical analyses (volatile organic compounds) were conducted on the borings collected in PDI Phase 1. Consistent with the approved work plan for the

2006 work<sup>2</sup>, chemical analyses were not conducted during the Phase 2 borings in this area as there was no evidence of NAPL beneath or within the clay layer. The visual analyses conducted by the project geologists (with DEC oversight) during both phases, along with the PID readings, are documented in the boring logs.

**14. Was only "free phase" NAPL in the pores of the sediment identified or were tests performed to identify NAPL contaminants adsorbed to the soil/sediment?**

Response: See response to Question 13.

**15. What method was used to determine the presence of NAPL for the ROD estimate of 232,000 cy of NAPL?**

Response: The ROD estimate was based on the approximate extent of NAPL recovery onshore along the SMU 2 shoreline (length of 873 feet and depth of 30 feet) at the time of the FS, as documented in the FS report (see below). Based on in-lake data at that time, the geometry of stratigraphic units was extrapolated offshore during the FS based on their onshore configurations (which were relatively well known due to the numerous borings along the lakeshore). It was then assumed in the FS that this on-shore NAPL plume would extend out into the lake a distance of approximately 240 feet from the causeway. The resulting extent of the pooled NAPL removal area assumed in the FS and ROD (about 4.8 acres) is indicated by the purple dashed line in ESD Figure 3 and TSD Figure 1. See also Section E.2.5, Table E.10, and Figure E.5 in Appendix E of the Onondaga Lake FS (Parsons, 2004).

**16. How was it determined that contamination does not extend beyond the maximum core depth of 42 feet (the maximum depth of the cores)?**

Response: As indicated in the response to Question 9, eight deep borings were advanced (seven in the lake along the causeway and one on land, just west of the causeway) to till at a depth of about 100 feet. There were no observations of NAPLs below a depth of 42 feet in these eight deep borings. Another key factor in that determination was observations of fine-grained material (*i.e.*, clay or silty clay) in the bottom sections of the 35 to 40 foot borings (collected using a Vibracore to further delineate the extent of NAPL in the marl unit), indicating that the top of the clay confining unit had been reached.

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<sup>2</sup> With regard to the deep borings, the April 2006 Causeway DNAPL Investigation Work Plan (Parsons, 2006) states that "Based on visual, field screening (*i.e.*, PID), and odor observations, up to three sediment samples will be collected at each deep boring to characterize areas suspected of containing DNAPL. Samples to be submitted for laboratory analysis will be determined by the Honeywell and DEC representatives. All samples will be analyzed for the same compounds as the Phase I PDI samples in SMU 2 (see Table 1). No analytical samples will be collected below the clay layer if evidence of DNAPL is not present."

**17. Was there any evidence of cracks/fractures in the clay, and NAPL migration through the clay?**

Response: Based on the deep borings, there was no evidence of cracks/fractures in the clay nor NAPL migration through the clay. See response to Question 9 for further clarification.

**18. How did the low permeability cause a reduction in the NAPL volume estimates?**

Response: Based on data collected during the spring 2006 investigation, it was determined that the pooled NAPLs extended out into the lake up to a distance of about 50 feet in SMU 2, as compared with a distance of about 240 feet that was assumed in the FS/ROD (refer to response to Question 15 for further detail). It was also determined that the average thickness of the pooled NAPL-impacted material was only about 1.6 feet, significantly less than the 30-ft thickness of NAPL-impacted material conservatively assumed in the FS/ROD.

Data collected during the spring 2006 investigation revealed that there was a major facies change within the marl, changing from a coarser-grained sand and silt unit at the shoreline to a fine-grained clay-silt offshore. This property change in the marl likely prevented the extensive offshore migration of NAPL.

**19. How was the permeability of the marl unit estimated for the proposed ESD? How was it estimated in the ROD?**

Response: Permeability of the marl unit was not estimated for the proposed ESD or ROD.

The results of the coring program indicate that the NAPLs did not migrate as far as was assumed in the FS and the ROD. Based on field observations, this is likely due to the marl beneath the lake being finer grained (and presumably less permeable). The grain size of the marl was determined on a visual basis by qualified geologists that had done descriptions during both Phases 1 and 2 of the investigation. These observations were concurred by on-site DEC and Earth Tech senior geologists who were also involved in both phases of the PDI. These visual descriptions were generally consistent with geotechnical testing of select sediment samples which included grain size analysis.

**20. What is the definition of the terms "pooled NAPL" and "non-pooled NAPL" as used throughout the proposed ESD, and how are the two types of NAPL identified and distinguished from each other? How is the distinction used in the revised estimate of NAPL volume?**

Response: The "pooled NAPLs" are believed to be a continuation of the on-shore NAPL plume and were observed by the on-site geologists as "saturated" layers or continuous seams which could be found at similar depths and/or horizons (e.g., the contact between Solvay waste and marl) in adjacent cores. This "pooled NAPL" in the causeway area is in contrast to the NAPLs in the in-lake waste deposit (ILWD) in SMUs 1 and 2 that are primarily distributed weathered NAPLs, consisting of



disconnected globules and/or isolated stringers.

This distinction was used to classify each boring location as shown by the yellow and white symbols on ESD Figure 3 and TSD Figure 1. The line depicting the extent of pooled NAPL was drawn based on this classification. The area in SMU 1 and SMU 2 behind this line and the proposed barrier wall is approximately 2 acres. Based on an average thickness of NAPL-impacted material of 1.6 feet, the NAPL volume was estimated to be approximately 5,000 cy. This is a conservative estimate as it assumes that NAPLs are present across the entire 2-acre area that would be contained by the barrier wall.

**21. What assumptions are made as to the extractability of "pooled" and "non-pooled" NAPL by extraction wells in the proposed new remedy?**

The proposed use of recovery wells to collect the "pooled" NAPLs in this area is based on the progress from the ongoing operation of the NAPL recovery system (immediately adjacent to the causeway). To date, in excess of 31,000 gallons of NAPLs have been removed and sent offsite for treatment/disposal. To the extent that "non-pooled" NAPLs are not collected by the recovery wells, they would be isolated from the lake and contained by the subsurface barrier wall and groundwater collection system.

**22. What kinds of studies/data will be collected in order to delineate the hydrology of the site, and the placement of wells in order to adequately capture all of the contamination, including any dissolved phase plume?**

Response: The identification of the appropriate well locations will include an evaluation of the existing NAPL recovery system as well as the NAPL delineation data that were collected during the Fall of 2005 and the Spring of 2006.

Whether any additional data are needed to support the design will be determined during the design of the expanded NAPL recovery system and the groundwater collection system. The design will be developed in line with applicable guidance.

**23. What will be the criteria for turning off the pumps?**

Response: The termination criteria will be developed as part of the operation, maintenance, and monitoring program in line with applicable DEC and EPA guidance. See also the response to Question 24.

**24. What criteria will be used to determine when all the mobile NAPL in the sediments and whatever remains in the upland source and pathway has been extracted?**

Response: The criteria for evaluating the effectiveness of the removal of mobile NAPLs will be identified during the development of the operation, maintenance, and monitoring programs in line

with applicable guidance. The criteria will likely be based on a number of site-specific factors, including changes in the NAPL production rate, the effectiveness of changing the pumping duration and pumping frequency.

**25. How will residual NAPL (non-mobile NAPL that cannot be removed through pumping) be treated?**

Response: Any residual NAPL (non-mobile NAPL that may not be removed through pumping) would be contained by the subsurface barrier wall and groundwater collection system and isolated from the lake. Also see Response to Question 10, above.

**26. What kind of monitoring will be employed to ensure that the NAPL and any dissolved plume is being captured, and that the wells are functioning properly?**

Response: The types and extent of monitoring will be identified as part of the development of the operation, maintenance, and monitoring program in line with applicable guidance and will include, at a minimum, the collection of groundwater elevation data and water quality data.

**27. How much residual NAPL will be left in the subsurface after the extraction wells are shut down?**

Response: The volume of residual NAPL cannot be determined at this time. Any residual NAPL would be effectively contained by the barrier wall and groundwater collection system. See also the responses to Questions 10 and 25, above.

**Requests for Information (Note: Document Status with respect to the Nation is as follows:**

- \* Electronic copy provided separately by R. Nunes
- \*\* Previously provided in hard copy
- \*\*\* Previously provided electronically
- \*\*\*\* Hard copy or CD copy submitted via overnight mail

**1. Please provide all documentation that led to the conclusion that the new remedy in the proposed ESD does not constitute a fundamental alteration to the remedy selected in the 2005 ROD.**

These documents include the following:

- NAPLs Removal Volume Estimates in Excel\*
- EPA's "A Guide to Preparing Proposed Plans, Record of Decisions, and Other Remedy Selection Decision Documents," July 1999, at <http://www.epa.gov/superfund/resources/remedy/rods/>

Also, see response to Question # 1.

**2. Please provide all of the supporting technical data, documentation, reports, correspondence, and evaluations that were conducted to determine that the proposed new remedy is the appropriate remedy for SMU 2 and SMU 1.**

These documents include the following:

- Causeway DNAPL Investigation Work Plan, April 2006\*\*
- Summary of the Proposed Explanation of Significant Differences, August 2006\*\*\*
- Technical Support Document for Explanation of Significant Differences, August 2006\*\*\*
- Contaminated Sediment Remediation Guidance for Hazardous Waste Sites, December 2005, <http://www.epa.gov/superfund/resources/sediment/guidance.htm>

**3. Please provide copies of any technical documents (e.g., reports, memoranda, etc.) that accompanied such a re-evaluation of FS alternatives if it occurred.**

No documents relative to this issue were developed. See response to Question # 3.

**4. The geotechnical document provided to the Nation appears to be a summary (Parsons 2006, Attachment B). If there are more detailed technical reports on the stability analysis and accompanying data, they should be made available to the Nation.**

- Response: See response to Request # 2.

**5. Please provide all documents, memoranda, reports, data, etc. pertaining to analysis of the confining clay layer and predictions of the volume of residual NAPL left in the subsurface after completion of pumping.**

Response: The work plans for the investigations to delineate NAPLs in the causeway area are as follows:

- The final Work Plan and Sampling and Analysis Plan (SAP) for the borings collected during Phase 1 of the PDI in fall 2005 were issued on September 1, 2005.\*\* See the SMU 2 section of these reports. This work included 20 approximately 40-ft borings in front of the causeway in SMU 2 (OL-STA-20001 through 20015, 20019 through 20023).
- The final Work Plan for the Willis-Semet Causeway DNAPL Investigation for the borings collected during Phase 2 of the PDI in spring 2006 was issued on April 7, 2006.\*\* This included 41 borings to various depths (33 borings typically to 35 to 40 ft and the eight deep borings to till, as discussed in response to Question 9) in front of the causeway in SMU 2 and just east of the causeway in SMU 1 (OL-STA-20024 through 20032,

20034 through 20058, and 20060 through 20066).

The final location of all borings collected in this area during Phases 1 (2005) and 2 (2006) of the PDI are shown on Figure 3 of the proposed ESD\*\*\* and Figure 1 of the TSD\*\*\*. The logs for these borings are contained in Attachment A of the TSD. The volume of residual NAPL can not be determined at this time. Residual NAPL will be effectively contained by the barrier wall and groundwater collection system. See also the response to Question 25.

**6. Please provide data and technical documentation related to how the proposed new remedy will address contamination in the dissolved phase.**

Please see response to Question 10.

**7. Please provide detailed technical documentation regarding the estimates of NAPL and NAPL contaminants in the sediments and subsurface at SMU 2 and SMU 1.**

Response: See response to Question 12. The FS report, ROD, proposed ESD and TSD previously have been provided to the Nation. The "pooled NAPLs" were observed by the on-site geologists as "saturated" layers or continuous seams which could be found at similar depths and/or horizons (e.g., the contact between Solvay waste and marl) in adjacent cores. These "pooled NAPLs" in the causeway area are in contrast to the NAPLs in the ILWD in SMUs 1 and 2 that are primarily distributed weathered NAPLs, consisting of disconnected globules and/or isolated stringers.

This distinction was used to classify each boring location as shown by the yellow and white symbols on proposed ESD Figure 3 and TSD Figure 1. The line depicting the extent of pooled NAPL was drawn based on this classification. The area in SMU 1 and SMU 2 behind this line and the proposed barrier wall is approximately 2 acres. Based on an average thickness of pooled NAPLs of 1.6 feet, the pooled NAPL volume was estimated to be approximately 5,000 cy. This is a conservative estimate as it assumes that pooled NAPLs are present across the entire 2-acre area that would be contained by the barrier wall.

The final location of all borings collected in this area during Phases 1 (2005) and 2 (2006) of the PDI are shown on Figure 3 of the proposed ESD and Figure 1 of the TSD. The logs for these borings are contained in Attachment A of the TSD.

Also, see response to Request # 3.

**8. Please provide all documentation describing how the NAPL extent was delineated.**

Response: Please see the response to Request # 7.

**9. Please provide the technical documentation and data used to make [the NAPL**

determinations referenced in questions 18-21].

Response: The logs for the borings collected in 2005 and 2006 that were used to make these determinations are contained in Attachment A of the TSD.

**10. Please provide copies of all data collected during the pre-design stage pertaining to the permeability of the marl unit. Pumping data, or the technical reasoning to proceed with the pre-design stage without it, should also be provided.**

Response: No permeability testing with respect to the permeability of the marl unit was conducted during the pre-design stage. Also, see responses to Questions # 18 and 19.

**11. Please provide all documents concerning or relating to the effectiveness of the extraction wells and an explanation of the design of the extraction well system.**

Response: The design of the NAPL recovery system (including the identification of the appropriate well locations) will include an evaluation of the existing NAPL recovery system as well as the NAPL delineation data that were collected during the Fall of 2005 and the Spring of 2006.

NAPL recovery is expected to be effective based on the successful removal of NAPLs by the existing NAPL recovery system. The system's effectiveness at NAPL recovery will be evaluated during the operation of the system. If necessary, the design and /or operation of the NAPL recovery system will be modified to improve effectiveness.

JOSEPH J. HEATH  
ATTORNEY AT LAW  
716 EAST WASHINGTON STREET  
SUITE 104  
SYRACUSE, NEW YORK 13210-1502  
315-475-2559  
Facsimile  
315-475-2465

November 13, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Mr. Timothy Larson, P.E.  
Onondaga Lake Superfund Site - Public Comments  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7016

**RE: Proposed Consent Decree 89-CV-815**  
**State of New York v. Honeywell International, Inc.**

Dear Mr. Larson:

I am writing on behalf of the Onondaga Nation, for whom I am General Counsel, to express the Nation's deep and continuing regret at the failure of New York State (the State") to seriously consider or respond to the issues we have raised with respect to the remedy proposed in the Record of Decision issued in July of 2005 for the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site ("the ROD"). While honest differences of opinion may certainly arise with respect to such a complex site, the New York State Department of Conservation ("NYSDEC") has disregarded the Onondaga Nation's legitimate, deeply held spiritual and cultural interests with respect to Onondaga Lake.

Although the proposed consent decree enumerates the steps take by the State in order to ensure compliance with the court's schedule and the applicable statutory requirements, we note that the State and the U.S. Environmental Protection Agency have used the court's schedule as an excuse to evade their responsibility to consult with and take into account the comments and concerns of the Onondaga Nation with respect to this matter.

We urge the NYSDEC to reevaluate its position with respect to the Nation prior to submitting its final consent decree implementing the ROD to Judge Scullin for his approval. As you know, Judge Scullin may not approve this document if he determines that it is not in the public interest and consistent with the National Contingency Plan. It is the Onondaga Nation's position that the public interest includes the Nation's legitimate concerns about respecting the spiritual importance of the Lake by restoring its ecological integrity. At a

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- 4** minimum, as discussed in detail below, we urge New York State to require the defendant Honeywell International ("Honeywell") to provide copies of all documents produced under this consent decree to both the U.S. Environmental Protection Agency and to the Onondaga Nation, as a means of improving communication and facilitating consultation with the Nation.

We continue to assert that the ROD is fatally flawed, and we wish to call to your attention several serious issues in your proposed consent decree which, if not resolved, will seriously interfere with any clean up undertaken.

**5 Financial Assurance, Paragraphs 68-73.**

There is no credible reason for New York State to defer the requirement that Honeywell International provide financial assurance for the cleanup. To wait until the State, by some unspecified mechanism, divines that financial instability threatens Honeywell's ability to complete the actions required by the consent decree is inconsistent with CERCLA and the National Contingency Plan. The time to assure financial ability to complete the remedy is at the time when financial stability is present. Rather than making the bald assertion that the State "has no reason to doubt" that Honeywell has the resources to complete the cleanup, the consent decree should state, if true, that Honeywell meets the financial test set forth at 40 CFR 264.143(f), that Honeywell will evaluate its financial situation quarterly and shall certify to the State that it continues to meet such test, or, if it cannot so certify, shall immediately secure financial assurance in one of the listed forms, consistent with the requirements of 40 CFR 264.143.

**6 Communications, Paragraph 82 and 84.**

We note that paragraph 84 the proposed consent decree requires that copies of documents subject to State approval be submitted to the document repositories and to this office. The Onondaga Nation recognizes the importance of its role as a consulting party with respect to Onondaga Lake pursuant to both CERCLA and §106 of the National Historic Preservation Act. Therefore we request, as an aid to consultation and effective participation, that this office be included in the list contained in paragraph 82 rather than the paragraph 84 list so that we may timely be advised of significant issues related to the cleanup.

**7 Stipulated Penalties, Paragraphs 56.**

We do not understand why the penalties stipulated in paragraph 56 do not escalate to

TIMOTHY LARSON, P.E.  
 November 13, 2008  
 Re: CONSENT DECREE ON LAKE BOTTOM ROD  
Page 3

the statutory maximum in the event of extreme delays in performance, for example for noncompliance for periods exceeding 45 days. Noncompliance of this magnitude would be too serious to warrant anything less.

#### **Force Majeure, Paragraph 57.**

8

It is critical to delete the parenthetical "(including prohibitively severe or extraordinary weather conditions which materially interfere with implementation of the Remedial Program)". This phrase obscures and makes unclear what is meant by an "event beyond the control of Honeywell or its agents in carrying out Honeywell's obligations under this Consent Decree which cannot be overcome by their due diligence" and suggests that weather is in some way subject to a lesser standard than "due diligence." Who decides what is prohibitively severe or extraordinary? What is material interference as opposed to immaterial interference?

#### **Citizen Participation, Subparagraphs 29 H and paragraph 93**

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It is not sufficient to require Honeywell to merely provide information to the public. Rather, it is critical that Honeywell also prepare a citizen participation plan that contains clear guidelines for incorporating citizen input into remedial design and monitoring plans. Glossy informational materials and expensive meeting locations are no substitute for frank consideration of alternative viewpoints and information, and incorporation of those inputs into the final plan.

#### **Remedial Design Contents, Paragraph 29**

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Item vi in Paragraph 29 requires Honeywell to include within its remedial design report "monitoring which integrates needs that are present on-site and off-site during and subsequent to the implementation of the selected remedial alternative." In light of the critical importance of monitoring not only to the remedial design process, but to the ultimate ability to ascertain attainment of the remediation, the vagueness of this language leaves room for multiple interpretations which could lead to problems with enforceability. What kind of "needs" are to be monitored? Who decides what these "needs" are? What does it mean to "integrate" "needs"? What standards apply to the selection of monitoring approaches? For how long "subsequent" to implementation must monitoring continue? Who will decide?

The Onondaga Nation has previously noted that the lack of clearly articulated remedial goals is the most serious flaw in the ROD. To the extent that the effectiveness of

the remedy is to be ascertained in any meaningful way, pre-implementation monitoring of relevant parameters, including food chain monitoring of mercury and other toxic compounds should be included as a substantial component of the remedial design. This language should be revised to be more specific about the role that monitoring is to play in the remedial design process.

## **11 Remedial Design Work Plan, Paragraph 24**

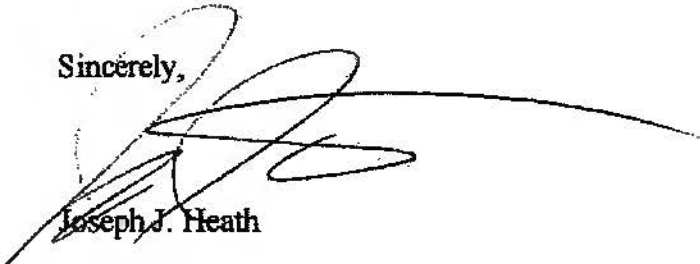
Paragraph 24 contains several references to "the Site" which is not elsewhere defined in this Consent Decree. In subparagraph D, for example, the Remedial Design Work Plan is required to include "a plan to secure physical security and posting of the Site." Which site is referred to? The Onondaga Lake Superfund Site? The Lake Bottom Subsite as referenced in paragraph 4? Subparagraphs E and F are similarly vague, and therefore the enforceability of these provisions is doubtful. This language should be revised.

### **Conclusion**

**12** The Onondaga Nation continues to oppose the implementation of the remedy contained in the ROD, which is to be memorialized by this proposed Consent Decree. The plan itself, and thereby the Consent Decree are together inadequate. It is inappropriate for the NYSDEC to sanction a plan that will leave dangerous, carcinogenic, and highly mobile chemicals and heavy metals in Onondaga Lake.

The levels of these dangerous and carcinogenic toxins which will be left if this Consent Decree is entered will exceed the agency's own "safe" levels. In the final analysis, the Lake will remain a Superfund site after this remedial action. This plan is not in the public interest, nor is it consistent with the National Contingency Plan. The consent decree should not be entered.

Sincerely,



Joseph J. Heath

cc: Onondaga Nation Council of Chiefs  
Christopher A. Amato, Esq.

TIMOTHY LARSON, P.E.

November 13, 2006

Re: CONSENT DECREE ON LAKE BOTTOM ROD

Page 5

Denise M. Sheehan, Commissioner, New York State DEC  
Kenneth Lynch, Regional Director, New York State DEC  
Alan J. Steinberg, Regional Director, U.S. EPA Region 2



**R-1**

**METROPOLITAN DEVELOPMENT ASSOCIATION OF SYRACUSE & CENTRAL NEW YORK INC.**

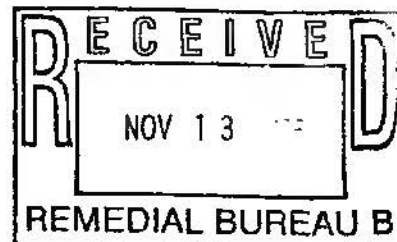
DR. KENNETH A. SHAW • CHAIRMAN

IRWIN L. DAVIS • PRESIDENT & CEO

STEPHEN A. ROGERS • VICE CHAIRMAN

ROBERT U. ROBERTS • VICE CHAIRMAN

November 10, 2006



Mr. Timothy Larson, P.E.

Project Manager

Onondaga Lake Superfund Site – Public Comments

New York State Department of Environmental Conservation

625 Broadway

Albany, New York 12233-7016

Dear Mr. Larson:

On behalf of the officers, directors and members of the Metropolitan Development Association of Syracuse & Central New York (MDA), I write in support of the draft Consent Decree for the Onondaga Lake Bottom Site (#7-34-030).

**1**

The MDA, representing the business leadership of the Central Upstate New York region has long had a strong interest in restoring Onondaga Lake.

From advocating for federal and state clean-up funds, to carrying out a comprehensive master plan for the lake and environs, to dedicating staff to participate on the Onondaga Lake Partnership, the MDA has for many years devoted its time and resources toward transforming Onondaga Lake into a true regional asset.

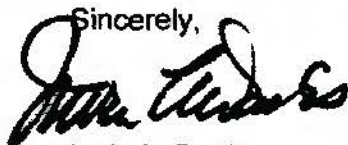
In this regard, we believe the Department's draft Consent Decree with Honeywell International will significantly advance this transformation by comprehensively addressing contaminated sediments in the lake; thereby generating substantial economic, tourism and recreational benefits.

From the perspective of the region's business leadership, the remedy being proposed and the resources being committed are appropriate and reasonable given the extent and complexity of the problem.

Nor should the public and interested parties lose sight of the fact that the Consent Decree is the result of many years of effort by world-class scientists, engineers and technicians, with involvement by professionals and agencies whose mission it is to protect the environment and public health.

- 2** Finally, the MDA would like to go on record calling for action and not more studies and delay. With a sound plan and almost \$500 million committed to clean-up activities, the time has come to begin the task at hand.

Sincerely,

A handwritten signature in black ink, appearing to read "Irwin L. Davis". The signature is stylized with a large initial "I" and a long, sweeping underline.

Irwin L. Davis  
President  
Metropolitan Development Association





R-2

COUNTY OF ONONDAGA  
**OFFICE OF THE COUNTY EXECUTIVE**

NICHOLAS J. PIRRO  
COUNTY EXECUTIVE

EDWARD KOCHIAN  
DEPUTY COUNTY EXECUTIVE

SUSAN J. TORMEY  
EXECUTIVE COMMUNICATIONS DIRECTOR

JOHN H. MULROY CIVIC CENTER  
421 MONTGOMERY STREET - 14TH FLOOR  
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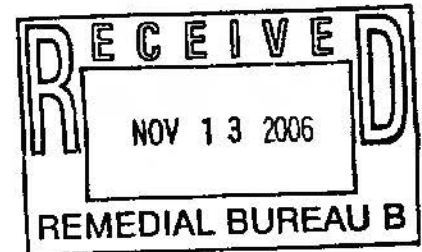
JAMES A. ALBANESE  
ADMINISTRATOR - PHYSICAL SERVICES

LYNN SHEPARD SCOTT  
ADMINISTRATOR - HUMAN SERVICES

COLLEEN A. GUNNIP  
RESEARCH & COMMUNICATIONS OFFICER

November 9, 2006

Mr. Timothy Larson, P.E.  
Onondaga Lake Superfund Site - Public Comments  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7016



Dear Mr. Larson:

As stated in the testimony I presented at the DEC's public hearing on the Onondaga Lake Bottom ROD back on January 12, 2005, it is time to move forward with remediation of the industrial side of the lake restoration equation. The plan proposed by the State is substantial and aggressive. It is not perfect, and there still exists a measure of uncertainty with regard to a number of the concerns I raised at the 2005 public hearing. However, it is time to proceed with the cleanup, and I consider the agreement to implement the plan by Honeywell as an important and significant step forward. **1**

Five key issues raised in my 2005 testimony included: 1) schedule, 2) long-term financial assurances, 3) institutional controls, 4) the sediment consolidation area, and 5) monitoring to measure remedy effectiveness. The Consent Decree speaks to the first two of these concerns: schedule and long-term financial assurances. While I would not necessarily expect the Consent Decree to address the other three concerns (which at this point will probably have to be addressed during the design process), I will point out that there still exists an uncomfortable level of uncertainty as to how satisfactorily these concerns will be addressed. Consequently, it is essential that the County continue to play an integral role in the review and evaluation of critical documents that will guide the further development and implementation of this effort, such as the Remedial Design Work Plan and Remedial Design. **2**

### **Schedule**

With respect to the issue of schedule, implementation of the ROD is a major undertaking and, while disappointing, it is not surprising to the County that the State and Honeywell now expect it to take nearly a decade to complete. The Consent Decree refers to a "schedule" that will be developed as part of the Remedial Design and spells out stipulated penalties that can be imposed if whatever schedule is developed is not met. Yet the Consent Decree does not require any major **3**

or minor milestones around which penalties can be imposed. Absent a requirement for milestones in the Consent Decree, it is not clear to the County how the State can require milestones and associated stipulated penalties to ensure that implementation of the ROD will proceed as anticipated. This appears to be a weak point in the Consent Decree.

#### **4 Financial Assurance**

In light of well documented recent history of problematic disclosure statements, the financial assurance provisions of the proposed Consent Decree would seem to afford little actual security that the required funds to implement, monitor and repair or replace remedial elements if and when necessary will be available. While there is no reason to question the integrity of Honeywell's financial disclosures and current financial strength, it would seem prudent to insist on obtaining clear evidence and disclosure of the actual plans and mechanisms for financing this substantial obligation. The bottom line with respect to this concern is that the State must provide absolute assurance that responsibility for completion, repair or replacement of the remedies called for in the ROD do not fall back on the taxpayers of Onondaga County.

Beyond these two issues that I raised in my 2005 testimony, there are a number of other issues and/or questions that need to be raised at this time.

#### **5 Natural Resource Damages**

The County notes that Natural Resource Damages (NRDs) are not addressed as part of the Consent Decree. Please explain the relationship between the Consent Decree and NRDs.

#### **6 Material Expansion of Scope of Remedy**

Under the section of the Consent Decree dealing with modification of the remedial program (paragraph 36), it is not clear what will happen under a worst case scenario, where some major element or elements within the ROD or Remedial Design are found not to work. For example, what if it is found that monitored natural recovery within the profundal zone proves to be an inadequate remedy with respect to mercury cycling from the sediments? Based on the language in the Consent Decree it appears that Honeywell could declare that some alternative or additional remedy is beyond the scope of, or materially expands the remedy selected in the ROD. Under such a scenario, how can or would the State pursue further remedial action with Honeywell?

#### **7 Monthly Progress Reports**

The County thinks that the requirement for written monthly progress reports in the Consent Decree is important. Because the County has played and will continue to play such an integral role in the restoration of the lake, the County should be included in the list of document recipients noted in the Consent Decree.

#### **8 State Monitor**

It is unclear to the County why there are no provisions in the Consent Decree for Honeywell to pay the cost of a dedicated State Monitor or Monitors to track progress and provide critical review of document submittals. The County pays the cost of two State Monitors to oversee implementation of the Amended Consent Judgment (ACJ). Implementation of the ROD will require no less oversight by the State than the ACJ. Why are there no provisions for State Monitors in the Consent Decree?

**Statement of Work (SOW) Appendix C**

9

Given the material that Honeywell will be treating, at the proposed Water Treatment Plant (WTP), the WTP facility has the potential to encounter elevated concentrations of mercury containing a significantly higher percentage of methyl mercury. Depending on the actual discharge volumes and concentrations, the methyl mercury fraction could represent a very large methyl mercury point source.

In order to enable any future modification of the proposed mercury related permit effluent limit for the WTP to be addressed through the modification provisions of paragraphs 36 and 37 of the Proposed Decree the NYSDEC should ensure that Honeywell is fully aware that the facility may not be subject to a fixed limit of 0.2 ug/l (200 ppt) for the entire life of the facility, and that the State reserves its right to modify that limit if circumstances warrant such a modification.

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The only way to be certain whether circumstances in fact warrant such a modification would be to explicitly require low level mercury and methylmercury monitoring of the Honeywell WTP.

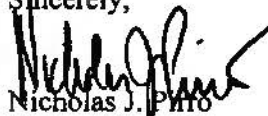
**Monitoring**

11

Measuring the extent to which this remediation effort is successful is fundamental to the overall restoration of the lake. In my 2005 testimony I requested that monitoring for the establishment of a reliable pre-construction or baseline database against which success can be measured begin immediately. It is the County's perception that the extensive sampling program that has been taking place until now has been largely aimed at addressing design issues and estimating costs as opposed to establishing baseline conditions. Please speak to this concern. I would also reiterate here that development of the post-construction monitoring program must involve the County and other appropriate stakeholders.

Thank you for the opportunity to comment on the Lake Bottom Consent Decree. I look forward to your response to the issues and questions I have raised above.

Sincerely,

  
Nicholas J. Pinto  
County Executive

# Office of the Supervisor

TOWN OF CAMILLUS  
4600 WEST GENESEE STREET  
SYRACUSE, NEW YORK 13219

L-1

MARY ANN COOGAN  
SUPERVISOR

PHONE: (315) 488-1335  
FAX: (315) 488-8768  
macoogan@townofcamillus.com

November 9, 2006

Mr. Timothy Larsen, P.E.  
Project Manager, NYSDEC  
625 Broadway, 12<sup>th</sup> Floor  
Albany, New York 12233-7016

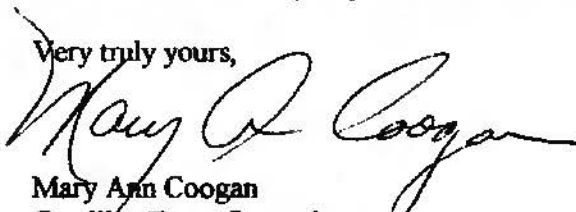
Dear Mr. Larsen:

The Town of Camillus is writing to comment on the use of Wastebed 13 for the Onondaga Lake Bottom Sediment Consolidation Area. As you undoubtedly know Wastebed 13 is in the Town of Camillus.

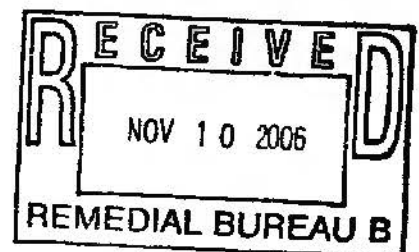
The Town of Camillus offered a large number of comments relative to this proposal and most were deferred to the design phase of the project which is apparently about to commence. We still believe that the SCA should be in the water or on the lakeshore but it appears that Wastebed 13 is the area selected by the lengthy process recently completed between Honeywell and DEC.

It is not our purpose in writing to simply restate the comments which are already part of the public record. We are prepared to play an active role in the design review phase to develop a project which our residents can be assured of no environmental impacts on their lives from this project. One point of emphasis is that the westerly extent of the SCA should be set back from the westerly berm of Wastebed 13 by at least 500 feet to provide a visual and noise buffer, and to provide a contingency response area in the event of a spill, leak, or other problem with the SCA. This issue is extremely important to us.

Very truly yours,

  
Mary Ann Coogan  
Camillus Town Supervisor

CC: Ken Lynch  
Town Board  
Dirk J. Oudemool





# The Village of Liverpool



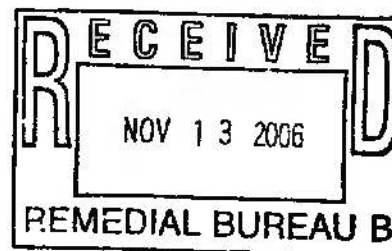
310 Sycamore Street  
Liverpool, NY 13088-4943

[www.villageofliverpool.org](http://www.villageofliverpool.org)

L-2

(315) 457-3441  
Fax (315) 457-5119

November 8, 2006



Mr. Tim Larson, PE  
Project Manager  
Onondaga Lake Superfund Site-Public Comments  
New York State Department of Environmental Protection  
625 Broadway  
Albany, NY 12233-7016

Dear Mr. Larson:

1

As Mayor and Trustee of the Village of Liverpool, we support the Onondaga Lake Clean-up program approved by the New York State Department of Environmental Conservation (NYSDEC). The Village supports the next phase of the Honeywell remediation project.

After decades of neglect, meaningful steps towards a long-term solution are long overdue. As a lakeside community, Liverpool has suffered for years as the lake was abused and neglected. The most recent improvements in the lake water quality have created an atmosphere of excitement and anticipation as manifested in the attractions that are being brought to Onondaga Lake.

Onondaga Lake Park has consistently attracted over one million visitors annually and next year will see several new events. The improved fishery habitat will bring the Elite Bass Master Tournament to the Lake and we are in consideration for other fishing derbies. We never could have imagined this type of eco-tourism a few short years ago, and the future of the lake will only be improved by the future investments to be made by Honeywell.

The work done to date has significantly improved the quality of the lake and the adjoining habitats. Given the scale and complexity of the problem, we must consider the possibility that some aspects of the remediation might have been overlooked or unanticipated. As we proceed along this path to remediation, we have several observations that I would like to have included in the record:

2

1. What will the NYSDEC use as benchmarks to measure the success of the remediation effort? As the work is done, what can we do check the progress and quantify the improvements?

3

2. What is the revised timetable for remediation?

4

3. What is the long-term plan to ensure the performance of the more technical systems? For example, will the filtration systems be monitored for effectiveness over time?

5

4. We strongly recommend the creation of a public oversight forum or board to make sure that the Lake is restored to the best possible level achievable.

We thank you for the opportunity to comment on the project, and we look forward to the next phase of the Onondaga Lake Project.

Very truly yours,



Marlene Ward  
Mayor



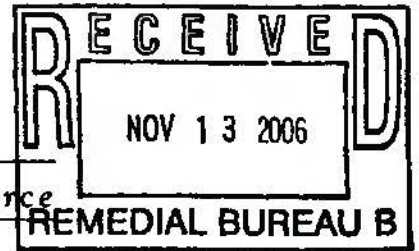
Nicholas R Kochan  
Village Trustee



# Chamber

• Communication • Collaboration • Commerce

L-3



November 10, 2006

Timothy Larson, Project Manager  
NYS Department of Environmental Conservation  
625 Broadway, 12th Floor  
Albany, NY 12233-7016

Dear Mr. Larson:

I am writing to you on behalf of the Greater Syracuse Chamber of Commerce to express our support for the recently reached agreement on the Onondaga Lake Bottom Site Clean Up Consent Decree. Onondaga Lake is a natural treasure for the City of Syracuse and all of Central New York. The progress to date with various remediations of water quality and lakeshore are encouraging to say the least. We believe that sustainable environmentally safe utilization of the lake will continue to grow in its value as a community asset and preserve it for future generations.

We applaud Honeywell's agreement with the Department of Environmental Conservation's recommendations and commitment to spend over \$400 million to implement the plan.

The Chamber and its more than 2200 members care about Onondaga Lake and its future. Our residents recreate and celebrate on it and its shores, enjoy its views and surrounding parkland. Increasing numbers of visitors and tourists participate in a growing number of events on the lake and in our County park.

The Lake is a critical asset for conventions and tourism. The Syracuse Convention and Visitors Bureau, a division of the Greater Syracuse Chamber of Commerce is actively marketing this venue. We see the lake as a venue that can attract tourists and events from across the nation and even beyond.

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**Greater Syracuse Chamber of Commerce**

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572 S. Salina St., Syracuse, NY 13202-3320  
Ph: 315-470-1800 Fax: 315-471-8545 [www.SyracuseChamber.com](http://www.SyracuseChamber.com) E-mail: [info@SyracuseChamber.com](mailto:info@SyracuseChamber.com)

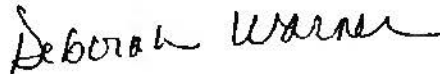
Here are some of the events that are in the works for the coming year:

- Thunder on the Lake on Father's Day weekend 2007
- ESPN B.A.S.S. major event finals, televised live in ESPN
- "Reel in the Outdoors" to be broadcast on the Outdoor Channel, with 12 universities participating
- A motor cross bike race in the Inner Harbor sponsored by Honda and Suzuki featuring a major water craft exhibition
- A USA canoe and kayak competition for 2007-8
- 2008 International Water Skiing World Championship, also to be televised

We know that the faster the water quality improves the more we can enjoy the lake and reap the benefits of having the lake within our city. Putting the agreed-upon clean up plan into action can't happen fast enough.

We enthusiastically support the plan and urge its swift enactment. Thank you for considering our position on this important project.

Sincerely,



Deborah S. Warner  
Director of Government Affairs

cc: Darlene Kerr  
David Holder  
John P. McAuliffe

**CITIZENS  
CAMPAIGN**  
FOR THE ENVIRONMENT



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□ 19 Court Street, Lower Level • White Plains, NY 10601  
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Tel: 716-831-3206 • Fax: 716-831-3207  
□ 466 Westcott Street, 2nd Floor • Syracuse, NY 13210  
Tel: 315-472-1339 • Fax: 315-472-1179

Protecting the environment and working for a healthy community.

**G-1**

November 13, 2006

Donald Hesler/Timothy Larson  
Onondaga Lake Superfund Site - Public Comment  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7016

[derweb@gw.dec.state.ny.us](mailto:derweb@gw.dec.state.ny.us)

**RE: Onondaga Lake Agreement**

Dear Mr. Hesler and Mr. Larson,

Citizens Campaign for the Environment (CCE) applauds both the New York State Department of Conservation (Department) and Honeywell Inc. (Honeywell), for investigating, drafting, and agreeing upon a plan to address the legacy of toxic industrial pollution in, contributing to, and surrounding Onondaga Lake. The Consent Decree is a critical document that provides the State, Honeywell, and the public further details on the extent of Honeywell's commitment to remediating Onondaga Lake, critical components to the Lake Bottom Subsite remediation plan, and opportunities for public participation. While CCE submits these comments to echo our general support for the State's preferred alternative, CCE continues to have a number of concerns that the Department should address.

*Please see CCE's Comments on the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site Proposed Plan, March 1 2005 for additional background available here: <http://www.citizenscampaign.org/comments/onondagacomments.htm>.*

**Comments**

**1**

1. **Extend public comment period.** CCE greatly appreciates all of the work the Department's dedicated Onondaga Lake team has worked to secure Honeywell's commitment to remediate Onondaga Lake as well as the extensive outreach activities the team participated in during the limited 30-day comment period. Activities included stakeholder meetings, public information session, public hearings, progress meeting, and individual meetings. The Department's accessibility and patience is much appreciated, however the complex technical,



scientific, and public policy issues surround this plan, which afford the public additional time to participate.

**Recommendation #1 CCE recommends the Department and the Court allowing additional time for the public to review, digest, and comment on this historic document.**

**2**

**2. Ensure lake bottom remediation plan transparency and citizen participation.**

It is clear that there is strong public concern and interest surrounding the remediation efforts to Onondaga Lake, most recently evidence by the strong public turnout to Onondaga Lake public meetings. Over 100 members of the public braved a stormy evening to attend the public availability session and public hearing held on the Consent Decree. Additionally, over 200 members of the public attended the 6<sup>th</sup> Annual Onondaga Lake Progress Meeting held shortly thereafter. The public must be afforded access and opportunity for continued participation in this long process.

The countless critical decisions will be made during the design and implementation/construction phases of the plan identified in the Consent Decree, may facets continue to be largely conceptual. As included in previous comments, CCE strongly believes that creating a Citizens Advisory Committee is a necessary component to ensuring the public's trust in this massive toxic removal and remediation project. Decisions, including the appropriate depths to dredge, thickness of isolation caps, construction design of a proposed hydraulic control system necessary to maintain cap effectiveness, aeration pilot study, and non-hazardous dredged material landfill or Sediment Contaminant Area (SCA) design and specific location, and scope of monitoring requirements—will be made during the Remedial Design Phase. The Remedial Design Phase is the time between the issuing of the final Record of Decision (ROD) and construction, which is expected to take about four years. While the Consent Decree requires the development of a citizen participation plan, CCE strongly believes that the overall clean up process, the public at large, as well as Honeywell and New York State will directly benefit from the establishment of an Onondaga Lake CAC. CCE continues to strongly believe that transparency and citizen participation throughout the entire process is necessary to gain community support, confidence, and acceptance.

**Recommendation #2 CCE recommends that the Department establish a Citizens Advisory Committee (CAC).** CCE believes the CAC should advise, provide guidance, and support to Onondaga Lake remediation efforts. CAC members should meet on a regular basis and consider agenda items, as determined by the members. The CAC would be charged with reviewing plan implementation, providing input on design phase decisions, and receiving regular reports on Onondaga Lake remediation progress and challenges. **At a minimum, the CAC should consist of members representing the Onondaga Nation, independent scientists, environmentalists, local government officials, and concerned citizens.** Such CACs are well established throughout New York State and the nation and have been beneficial to government agencies, stakeholder organizations and the general public. A CAC would be an easily accessible

stakeholder body to consult the public with any unforeseen scenarios, such as an ineffective ground water barrier or other changes. CAC members would gain a deeper technological understanding of the remediation effort and could assist in efforts to help inform the public. CCE respectfully requests consideration of membership on the CAC.

Once established, a number of items Honeywell is required to develop as a result of the Consent Decree could be further enhanced by involving the CAC, including, but not limited to:

- **Reviewing and commenting on the Remedial Design Work Plan (RDWP).** In conversations with the Department, it was understood that RDWP would be available for public review, but not necessarily comment. CCE believes that at least, the CAC, as a public body should be given an opportunity to provide comment in an open and meaningful way.
- **Review and comment on the Health and Safety Plan (HASP),** which will be developed and designed to protect workers and neighbors during remediation activities. In conversations with the Department, it was understood that the HASP would be available for public review, but the public may not necessarily be afforded and opportunity to comment on it. CCE believes that at least, the CAC, as a public body should be given the opportunity to provide comment in an open and meaningful way.
- **Review and comment on the Remedial Action Contingency Plan RACP.** Again, in conversations with the Department, it was unclear if the public would have an opportunity to review and comment on the RACP. Just as with the RDWP and HASP, CCE believes that at least, the CAC should be given an opportunity to review and comment on the RACP.
- **Review and comment on the Citizen Participation Plan.** The CAC, as well as the entire public, should be consulted in the development of an effective and meaningful Citizen Participation Plan.
- **Review and provide comments to Honeywell on monthly and quarterly reports.**

**3. Ensure upland remediation coordination and public understanding of the overall Onondaga Lake remediation process.** CCE strongly supports Atlantic States Legal Foundation's (ASLF) request for a "a detailed matrix be prepared that clearly defines all of the subsites for the Onondaga Lake Superfund Site along with the schedules, remedies, technical contact people, etc. This schedule should be incorporated by reference into the ROD for the Onondaga Lake Bottom Subsite." (ASLF 2/2005 page 3).

**Recommendation #3. CCE recommends that the Department expand upon the Matrix included in the Department's response to comments to include additional details and resources for more information.**

CCE supports the Department working with the CAC to provide assistance

in developing a Comprehensive and user-friendly visual tool to represent Onondaga Lake remediation projects and timelines.

- 4**      **4. Onondaga Lake should have signage in popular public access points to educate the public on the lake's history, current progress, and fish consumption advisories, and resources for more information, such as the Department or the Onondaga Lake Partnership (OLP).**  
             Recommendation #5 The State should require Honeywell to finance educational signage—developed by a third party—to be sited at popular public access points.
- 5**      **5. The public should have clear assurances that Honeywell will be able to fulfill their financial obligation.** CCE is pleased to hear that the state and the court have found Honeywell to be fully financially viable and that Honeywell can be expected to fulfill their financial commitment to clean up their predecessor's pollution legacy. CCE also would like to provide additional safeguards to ensure the public is not strapped with financial burden of remediating Onondaga Lake and that Honeywell is appropriately accountable as the identified responsible party. To that end, CCE offers the following recommendations.  
             Recommendation #6 In the case of any dispute over payments to the State or for the remediation effort which is raised by Honeywell, should require Honeywell to deposit the disputed figures in an escrow account until the dispute is resolved.
- 6**                        Recommendation #7 If a trust fund is created, the trust fund should be administered by the State of New York and expended solely for the benefit of Onondaga Lake.

In closing, CCE believes Honeywell has demonstrated leadership as the responsible party and that the Department has negotiated a remediation plan that is restoring hope to Onondaga Lake. The Consent Decree is an important step and provides a roadmap to the process surrounding the continued development and implementation of the remediation plan. However, CCE believes it will take a dedicated and involved CAC, that complements the work by the Department, Honeywell, OLP, to ensure the public remains actively engaged our community's most important project.

Thank you for the opportunity to comment.

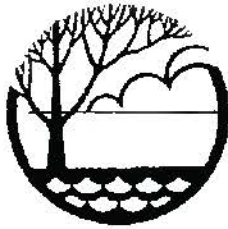
Sincerely,

Dereth Glance  
Program Director

Cc:    Ms. Adrienne Esposito, CCE Executive Director  
      Ms. Denise Sheehan, NYSDEC Commissioner  
      Ms. Kathleen C. Callahan, EPA Region 2



Honorable George Pataki, New York State Governor  
Honorable Elliot Spitzer, New York State Attorney General and Governor Elect  
Honorable John DeFrancisco, New York State Senate  
Honorable David Valesky, New York State Senate  
Honorable Joan Christiansen, New York State Assembly  
Honorable William Magnarelli, New York State Assembly  
Honorable Nicholas Pirro, Onondaga County Executive  
Honorable Matthew Driscoll, Mayor, City of Syracuse  
Honorable James Walsh, United States House of Representatives  
Honorable Charles Schumer, United States Senate  
Honorable Hillary Rodham Clinton, United States Senate



## Onondaga Environmental Institute

102 West Division Street, 3<sup>rd</sup> Floor  
Syracuse, New York 13204

G-2

Phone (315) 472-2150  
Fax (315) 474-0537

November 13, 2006

Timothy Larson, Project Manager  
NYS Department of Environmental Conservation  
625 Broadway, 12th Floor  
Albany, NY 12233-7016

Dear Mr. Larson:

The timing of the Record of Decision (RoD) and this *Consent Decree Between the State of New York and Honeywell International, Inc.* (hereafter referred to as the Consent Decree) is suspect and leaves the public with the general perception that the settlement between the State of New York (hereafter referred to as the State) and Honeywell was politically motivated. It appears the uncertainty associated with the potentiality of the State adopting a more hard-line position toward environmental regulation under a new governor and administration may have provided both parties impetus to settle.

The State has no financial guarantee that Honeywell will complete the process (as identified in paragraphs 68 and 69 of the Consent Decree); one of the options in paragraph 69 should be invoked. Furthermore, the settlement value of approximately 451 million dollars seems contrived and conspicuously equals the public investment in the sewer improvement projects. The sewer improvement projects under the Amended Consent Judgement (ACJ) represent the largest public works project in Central New York to date. The same coalition of engineering firms, businesses, and organizations that designed the sewer improvement projects are likely to design and implement the sediment remediation. As with the ACJ, many view the sediment remediation of Onondaga Lake as a "make-work" project. Use of environmental programs and regulation as a tool to provide local economic aid is a cause for concern, and leaves the public impression that environmental compliance and the protection of human health and environment are secondary issues.

A critical examination of business interests and relationships among local governments, institutions, engineering firms, consultants, and Honeywell might lead one to theorize that the State and local governments were complicit with, and for the benefit of, Honeywell when signing the ACJ in order to delay and/or avoid diversion of the Syracuse Metropolitan Sewage Treatment Facility (METRO) effluent to the Seneca River. Nutrient loading promotes algal biomass in the hyper-eutrophic epilimnion of Onondaga Lake, which in turn depletes oxygen in the hypolimnion upon microbial decomposition. In effect, Onondaga Lake becomes shallow to macro-invertebrates and fish, as hypoxia confines most life forms to the upper waters and

precludes establishment, and therefore contact with contaminated sediments in the deep waters of the profundal zone. Hence, failure to adequately address in a timely manner the nutrient loading problems in Onondaga Lake has afforded the parties responsible for chemical contamination time to defer cleanup costs. The plan put forth under the RoD, and agreed to in this Consent Decree, does more of the same.

- 4 The current plan for lake bottom remediation is nebulous and fails to identify end points for restoration. Although the State identifies target cleanup criteria for sediment and presents a series of scenarios that describe sediment Mercury relationships to the water column and biota, the data sets used to support the scenarios are woefully insufficient; the data are disjointed, outdated, incomplete, and fail to establish comprehensive linkages over long periods of time. Further, the remedial investigation and the RoD fail to separate, nor quantify, the relative contributions of Mercury to the system from sediments, the METRO facility, tributaries, and atmospheric inputs. Consequently, an understanding of Mercury dynamics, and in particular methyl Mercury, in the Onondaga Lake system is lacking. Source attribution and quantitative analysis are critical to evaluating whether remedial actions are successful. Therefore, a comprehensive monitoring program, inclusive of food chain interactions, must be performed for an extensive period of time in order to establish pre-remedial conditions before implementation of the sediment remediation. The monitoring program should be designed to identify success or failure of the program and should be conducted by an independent party.
- 5
- 6 In final, the prescribed remedy for the Lake should be the restoration of a cold water fishery inclusive of indigenous species such as salmon, trout, sturgeon, and eel. The fish should be edible, absent of atmospheric inputs to the system.

Sincerely,

Edward M. Michalenko, Ph.D.  
President

G-3

# Onondaga County Federation OF

## SPORTSMEN'S CLUBS

MEMBER OF THE NEW YORK STATE CONSERVATION COUNCIL, INC.

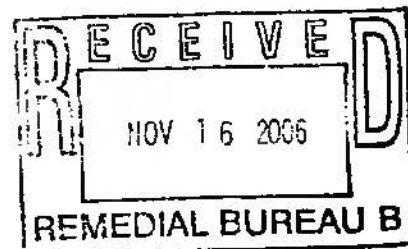


### Conservation Pledge

I GIVE MY  
PLEGE AS AN AMERICAN  
TO SAVE AND FAITHFULLY TO  
OFFEND FROM WASTE THE  
NATURAL RESOURCES OF  
MY COUNTRY—ITS SOIL  
AND MINERALS, ITS  
FORESTS, WATERS,  
AND WILDLIFE.

November 12, 2006

Timothy Larson, PE  
Onondaga Lake Superfund Site – Public Comments  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7016



Dear Mr. Larson:

The Onondaga County Federation of Sportsmen's Clubs declares its support for the cleanup plan for Onondaga Lake's contaminated sediments that was agreed to in a recently signed Consent Order between Honeywell and the NYS Department of Environmental Conservation.

1

We are in agreement with the following goals that the Onondaga Lake cleanup plan intends to achieve over a nine year design and implementation period:

- protect human health and the environment
- meet state and federal criteria for the control and removal of contaminated sediments
- improve the habitat for fish and wildlife
- improve recreational opportunities and expand public access to the lake
- create the conditions allowing, over time, for the lake's natural recovery.

The Sportsmen's Federation recognizes that substantial progress has been made in recent years in achieving federal Clean Water Act goals related to municipal waste discharges, including improved water clarity in the lake, higher levels of dissolved oxygen, and reduced levels of nutrient and ammonia discharges into Onondaga Lake.

The major problem that remains to be resolved is the cleanup of hazardous industrial wastes that have been discharged into Onondaga Lake over the past 75 to 100 years. Industrial waste discharges have resulted in contamination of lower Geddes Brook and Nine Mile Creek, the deposition of industrial 'waste beds' along the western and southern shores of the lake, and contamination of bottom sediments throughout the entire lake bottom.

2

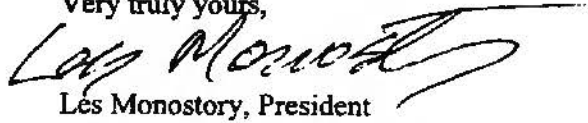
Sportsmen and other residents of the Onondaga Lake basin have been limited in their access and use of the lake due to contaminated fish and wildlife, and specifically due to



high levels of mercury in fish, which has resulted in health advisories related to fish consumption. Public access to the lake shoreline is also limited due to industrial waste beds and elevated levels of hazardous wastes found along various near-shore sediments.

- 3 The Onondaga County Federation of Sportsmen's Clubs believes that the Consent Decree and the cleanup plan agreed to by Honeywell and the NYSDEC provides a necessary framework and a process for undertaking the major task of remediating a long history of industrial contamination in Onondaga Lake. A major share of the funding for this cleanup will be provided by Honeywell. An important feature of the cleanup plan is that the Consent Decree has in place standards to be met, rather than dollar figures, for attainment of future fish and bottom sediment contaminant target levels.
- 4 The Sportsmen's Federation supports the process of developing a monitoring plan and program for Onondaga Lake's industrial hazardous wastes. The Federation also intends to play an oversight role in ensuring that the lake remediation and monitoring program will achieve the cleanup goals of protecting human health and the environment, and improving Onondaga Lake's habitat for fish and wildlife.

Very truly yours,



Les Monostory, President  
Onondaga County Federation of Sportsmen's Clubs  
P.O. Box 5687  
Syracuse, NY 13202

Cc: Kenneth Lynch, Director  
Region 7, NYSDEC  
615 Erie Blvd. W.  
Syracuse, NY 13204

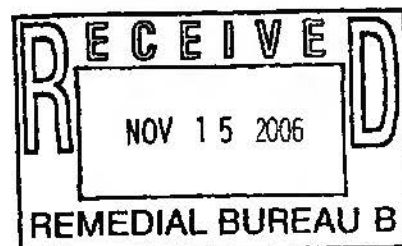


G-4

MILTON J. RUBENSTEIN MUSEUM OF SCIENCE & TECHNOLOGY  
500 SOUTH FRANKLIN STREET SYRACUSE, NY 13202  
PHONE 315-425-9068 FAX 425-9072 WWW.MOST.ORG

Peter W. Plumley  
November 13<sup>th</sup>, 2006

Timothy Larson, P.E.  
Onondaga Lake Superfund Site – Public Comments  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7016



Last July the Milton J. Rubenstein Museum of Science and Technology led 25 students from four Syracuse City middle schools on a week-long Summer Science Camp journey through the Onondaga Lake watershed to collect and analyze water samples while learning first-hand how a consortium of scientists (*academic* – Syracuse University and Cornell University, *government* – Onondaga County Department of Water Environment Protection and United States Geologic Survey, and *corporate* – Honeywell and Bristol-Myers Squibb) are acting as a team to monitor the environment and water quality from the Tully headwaters, through metropolitan Syracuse, to the Onondaga Lake outlet.

In mid October, we learned, along with the rest of the community, that the State and Honeywell have agreed on a plan to cleanup Onondaga Lake.

As a scientist, I'm very pleased with this development and am excited about the opportunity to follow the lake's healing progress through educational activities. Through programs offered by the MOST, I have seen how the Onondaga Lake cleanup can provide a real-time environmental lab right in our own backyard that students from elementary to graduate level can broaden their knowledge of science and the environment, while understanding its role in our community.

1

The lake cleanup can only be seen as a positive development for Central New York. The MOST stands ready to document the project and chart the progress as a component of our science exhibits.

Sincerely

Peter W. Plumley

Exhibits Project Manager  
Milton J. Rubenstein Museum of Science & Technology, and

Associate Research Professor  
Department of Civil & Environmental Engineering, Syracuse University





## **ATLANTIC STATES LEGAL FOUNDATION, INC.**

### **Onondaga Lake Bottom Site (#7-34-030) Proposed Consent Decree Draft Explanation of Significant Differences Document Siting of the Sediment Consolidation Area**

**Comments Submitted by Atlantic States Legal Foundation, Inc.  
Samuel H. Sage, President  
13 November 2006**

This submittal represents the comments of Atlantic States Legal Foundation, Inc. (ASLF) to the public record in regards three documents related to the Onondaga Lake Bottom Site (#7-34-030). The first is the "Proposed Consent Decree between the State of New York and Honeywell International Inc. (CD)," October 2006 that will be submitted to Judge Scullin for his approval. The second is the draft "Explanation of Significant Differences" (ESD), September 2006, document that explains changes that have been made to this project since the issuance of the Record of Decision (ROD) in July 2005. The third item is "Onondaga Lake Sediment Consolidation Area Siting Evaluation," (SCA), September 2006.

1

Atlantic States Legal Foundation, Inc. submitted comments on the ROD in 2005. At this point we would reiterate the points made then. We urge that the projects and procedures described in the ROD and these additional three documents be finalized, as appropriate, and submitted to the court forthwith. All of us deserve as expedited implementation as possible.

The materials that have been subject to public review do not represent a perfect project. There are many unanswered and unknown factors that will only manifest themselves as the project proceeds. We hope that implementation can happen with full cooperation of the parties and full disclosure to and involvement of the public. Particular attention must be given to the sovereign Onondaga Nation whose overwhelming interest in this matter needs no further enumeration here. Further, Atlantic States Legal Foundation, Inc. as the US EPA designated TAG agency should be involved at every step and should be part of the team developing the work plan and public participation plan for carrying out this project.

2

Although ASLF is generally pleased with the direction things are going in regards the remediation of the Onondaga Lake Bottom Site, we continue to be troubled by the inability of

- 3 the NYS DEC to further engage the public. More serious, in our estimation, is that remarks and announcements related to the public disclosure of these three documents now under review, has further confused the public. More specifically, the constant mention of a "price" for the implementation of this program has been interpreted in many quarters as a "penalty," rather than what it is as an estimated cost for what is thought to be the necessary amount of resources Honeywell will have to expend in implementation. The public is not being adequately made aware that under Superfund, the clean-up is performance based, i.e. to protect human health and the environment, and so the ultimate success or failure of this clean will be measured by continued monitoring of results after completion of construction and not by the expenditure of any set amount of money. If the plan envisioned by the ROD does not work, then Honeywell must do it over until it does work. The necessary expense in re-doing this clean-up falls on Honeywell's shoulders and could make the final expenditure much greater than the estimated number.
- 4 Atlantic States Legal Foundation, Inc. has pledged its cooperation both to the state and to Honeywell in making sure that correct, understandable, and adequate information flows to the public. That cooperation and involvement should start immediately – it should not have to wait for an approved work plan.

#### Consent Decree

The CD is the document that legally binds the parties and spells out in legal terms exactly what is expected. This document required long negotiations and ASLF hopes that the few comments below do not result in further long delays in its being transmitted to the court. However, we feel that in two areas there is a need for amendment.

- 5 1. The CO should spell out in details that all document submitted under this CO should be placed in the various document repositories or at least to the three that are the most complete. This must also include all document mentioned in the CO.
- 6 2. We realize that a detailed public participation plan is yet to be written and is one of the first tasks after completion of a work plan. We would urge that the CO be amended to include ASLF as the EPA designated TAG agency and that there is a role for ASLF in drafting this plan and in its implementation.

#### ESD

The ESD is required as significant changes have been proposed to the ROD. For the most part, ASLF is not adverse to these changes as proposed in the ESD. We do, however, feel that there are several issues that need to be further resolved.

- 7 1. Habitat goals. Throughout the Onondaga Lake remediation and clean-up process there have not been any end goals except for meeting regulatory requirements. This is fair enough for the Superfund process, except that alternative paths always present themselves and these require decisions on matters that are not strictly regulatory. The ESD recognizes the need for and the future production thereof a habitat restoration plan. This plan, however, must be based on some "vision" and consensus of what is both possible and desirable. The modifications spelled out in the ESD will require

- changes in habitat. The goals for the direction and desirable outcomes of these changes should be set by the public under the direction of the DEC.
2. Endangered plants. Two NYS endangered plants *Najas quadalupensis* (Southern naiad) and *Potamogeton strictifolius* (Straightleaf pondweed) have been found growing the littoral regions of the lake. The increasing diversity of macrophytes growing in the lake is indeed an indicator that the water quality is improving and this should be welcomed news. One of these plants has been found in all seven littoral areas and the other in five of the seven. The ROD must be amended to make note of these plants and to require that in design of the final remedial operations that protection of these plants is being assured. 8
  3. Barrier wall. The barrier wall is going to be constructed of epoxy coated steel. The wall has a finite lifetime which will be monitored with repairs and reconstruction undertaken as necessary. Our concern is with the aging and oxidation of the barrier wall and therefore with its chemical decomposition. The steel contains trace metals as well as iron. Dissolving iron into Onondaga Lake waters will most likely not present any problem to the environment. More attention should be paid and discussed regarding other components of the steel. Additional concern is raised by the epoxy coating. What happens chemically to this coating as it ages and decomposes? What is the effect on lake waters of these decomposition products? 9
  4. Lake surface area. As explained in the ESD, lake surface area will be diminished by this change from the ROD. One of the criteria for selected a preferred clean-up option was that there would not be any diminution of lake surface or volume. A mitigation plan must be prepared and should be subject to public discussion before final approval. As in the discussion above under habitat goals, this has implications for future habitat considerations for the lake. 10
  5. Time line. Do the changes enumerated in the ESD change the time line from the ROD? 11
  6. Detailed design. There should be public involvement in the design phase of the project. Honeywell and DEC should develop a plan for getting input before detailed design commences and then keep the public informed as the design progresses. We realize that a public participation plan is being drafted and is the second item after the overall work plan. However, we are also aware that some design work is now ongoing and so efforts are needed immediately to get this part of the public involvement plan launched. 12
  7. The ESD needs to spell out if moving the barrier wall into the lake changes any permitting requirements and what they might be. For example, does Honeywell need to apply to the Army Corps of Engineers for dredge and fill permit (404) or a Section 10 permit? 13

## SCA

Atlantic States Legal Foundation, Inc. finds nothing of concern with this SCA. We have one question that relates to the entire wastebed area. While the clean-up of the Onondaga Lake sediments is being carried out and material is being transported into wastebed 13, will this necessitate any restrictions on what is being done on the other wastebeds and on future considerations of their use? 14





PO Box 249 Liverpool, New York 13088

G-6

Wednesday, November 08, 2006

Timothy Larson, PE  
Onondaga Lake Superfund Site - Public Comments  
625 Broadway  
Albany, NY 12233-7016

Dear Mr. Larson:

On behalf of the Friends of Historic Onondaga I wish to express our support for the clean up of Onondaga Lake.

1

We recognize our role and responsibility as we continue to promote our area's history with a focus on the study, preservation and interpretation of the cultural history of Onondaga Lake. We support ongoing programs at the Salt Museum and Sainte Marie among the Iroquois. These two facilities tell the story our area's growth, how we evolved and flourished.

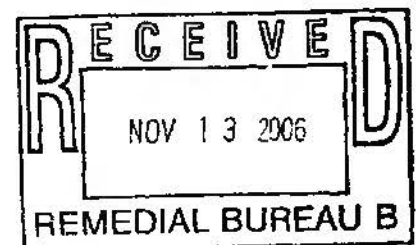
The benefits from the cleanup are :

- Increased quality of life, providing additional recreational opportunities.
- Stimulate economic growth through tourism .
- Educational opportunities, back to nature, understanding the natural order, respect for the environment, as well as cultural views.

The waterways gave us our start and they will continue to be a form of currency for future generations, if they are treated with care.

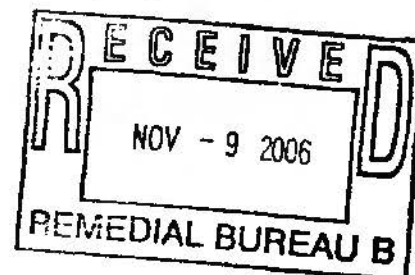
Sincerely,

Carol Sweet, President  
Friends of Historic  
Onondaga Lake



**JAMES V. BREUER**  
7106 BRAXTON CIRCLE  
FAYETTEVILLE, NEW YORK 13066

P-1



November 7, 2006

Mr. Donald Hesler  
Onondaga Lake Superfund Site - Public Comment  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7016

Dear Mr. Hesler,

I am happy to share with you my thoughts and comments pertaining to the recent agreement between the State and Honeywell Corporation regarding the cleanup of Onondaga Lake. As a member of the Syracuse University Crew Team in the late 1960's and early 70's, I spent countless hours on Onondaga Lake at all hours of the day. The morning sunrises and evening sunsets were spectacular and if not for the ability to smell and to see the debris and color of the water, one may think it was paradise.

1

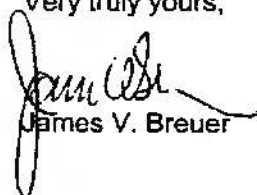
I remember our coach making decisions on which way to go for practice, up the river, or out on the lake. Part of that decision was based on water quality and odor that day. We rowers were usually pretty happy when the coach decided practice was on the canal system rather than "old Onondaga." After my college days, I attended events and sometimes took part in boating activities at the lake. We as a community seemed to accept the fact that this lake was one of the most polluted and it would never recover. Gradually, events on and around the lake seemed to be fewer and fewer.

I am happy that I stayed in the Syracuse area as I have grown my family and my business in this great community. I have hoped for a plan that would clean up the lake so that the community could again enjoy this "gem" to its fullest. It appears that we are on the threshold of this happening.

Onondaga County has spent millions improving the water quality and the results are already apparent. The DEC has come forward with a plan to clean up the bottom of the lake as well as polluted land sites around the lake. Honeywell has apparently agreed with the plan and will embark immediately to implement it. Within a decade, this lake will become a resource for our community that will make us all proud. It will attract once again major water events that can help stimulate our economy. It will provide people from all over Central New York a location to boat, fish and in the future, swim. I look forward to this continued progress.

I strongly recommend, without delay, the DEC plan be implemented.

Very truly yours,

  
James V. Breuer

**P-2**

**Spera, Michael**

---

**From:** Edna Carr [emerylcar@yahoo.com]  
**Sent:** Thursday, October 19, 2006 8:40 AM  
**To:** derweb@gw.dec.state.ny.us  
**Subject:** Onondaga Lake

I urge you to do MORE to clean up Onondaga Lake. Refuse the current proposal from DEC and Honeywell. Do it the right way! It's time to stop accepting the "quick" fix that costs us less today, but makes matters worse and more costly to fix later. **1**

---

Want to be your own boss? Learn how on Yahoo! Small Business.

11/17/2006



Spera, Michael

P-3

From: josephfrancis@eth.net  
Sent: Friday, October 20, 2006 9:00 AM  
To: tjlarson@gw.dec.state.ny.us  
Subject: Lake Clean up

Sir

I am a retired Professor of Chemistry from Cochin University visiting my daughters in Syracuse. I got interested in the Onondoga lake clean up project.

From what I understand there is tons of mercury -elemental and combined at the lake bottom-waste from the soda ash and sodium hydroxide plants. All over the world Brine electrolysis plants are shut down owing to pollution. You must also have done so. We have one at Alwaye, Cochin. We merrily send the waste to periyar river, which takes it to the sea. But your case is different. It is accumulated over the years.

1

In my opinion dredging the lake bottom should not be attempted. It will throw up all the contaminated sediment and spread the mercury all over the lake and mess up the whole surroundings. If you can drain the lake - which is not impossible- the mud can be scooped out and covered with a layer of sand. The sediment should be disposed off only after treatment.

In Holland they have done a similar job making the Schiphol air port. It was a lake -a polder as they call it.

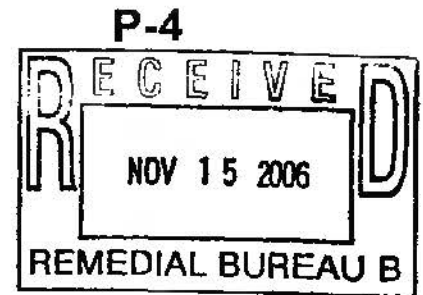
I request you not to dredge the lake in interests of people living around including my daughters.

With friendly greetings  
Professor Francis

*Page 2 of 2*

November 13, 2006

Timothy Larson  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7016



Dear Mr. Larson:

This letter is in response to the call for public comment on the proposed clean up of Onondaga Lake. Simply, I believe that the settlement and clean up plan proposed is a disgrace and a hazard to all future life in and around the lake.

1

In a world of presidents, it matters far beyond Onondaga County, how we deal with the most polluted inland body of water in the United States. If we don't stand up and demand what the Clean Water Act sets as a standard, we are shortchanging not just the inhabitants of this geographic area for all time, we jeopardize those communities across the country who look to our example for what they can expect for remediation of their toxic lakes. If we yield to the expedient or politically easy and temporary remediation of the hazards of this lake, there is no case, no lake anywhere that has a hope of being restored to a swimmable, fishable, drinkable standard in our county.

The proposed cleanup / cover-up would leave Onondaga Lake with mercury levels 1,400 times the safe exposure level. The proposed cleanup would leave the PHH1 levels in excess of 22,000 times the safe level, 1,300 times the safe levels of benzene. All of the lake pollutants post-remediation levels far exceed safe exposure and the law. The proposed remediation has no milestones by which citizens could measure progress in eliminating toxic hazards, it is literally a cover-up. The Clean Water Act is ignored. This is a kin to dealing with the waste of the nuclear power industry. The best container they offer has a shelf life (which we have no way of knowing is true) of maybe 150 years. These containers will have to contain substances with a radioactive half life of 126,000 years.... All of this is a travesty and a mockery of stewardship for our children and the disease burden they will inherit as a consequence.

2

3

The toxic pollutants of 20<sup>th</sup> century life can not be cynically sealed off and called gone. Finally we have to connect the dots between the costs of our life style and the consequences

Our county executive rightly points out that if we dredged the lake we would only create a problem for people wherever we dumped the waste. Our county executive rightly points out that the costs would be prohibitive if we were expected to restore Onondaga Lake to the standard of the law. And, both of these realities should suggest that the rest of our environmental history is doomed if we do not take a stand here. Albert Einstein said that we can not solve the problem with the same mind that created the problem. The

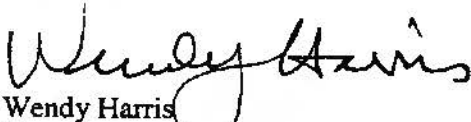
4

County executive is of the old mindset, the Onondaga Nation and their land claim lawsuit is of the new mindset. I believe we have to change the law and require every viable corporation who ever soiled this lake, share proportional responsibility in the lakes cleanup based on their share of its problem. The city and county governments must be held responsible for their failure to manage water overflow and human waste treatment problems. Citizens must also be willing to dig deep to do what is right – remediate this lake in a way that will communicate to all current and future polluters, that we no longer will tolerate such wonton exploitation of our environment. Maybe Syracuse could become the leader in environmental toxic awareness, spear heading a national debate on consequences of our lifestyle, corporate responsibility, and environmental stewardship. Maybe we could turn this in to positive for our city and region.

We as a people have become complacent and hopeless about anything but money and big business speaking. Please consider the voice of Mother Earth, please do the right thing for your grandchildren seven generations out and beyond.

I am simply a citizen, with no particular affiliations, that believes that this is a tragically inadequate plan of a so-called clean up. It provides near term political cover for our "leaders" to have appeared to have done something, when in reality all they did was place a 'band aide' on a festering ill with the hope that it stays contained. Shame on all of us for considering this a real solution. Shame on us for passing the true burden to our children and ignoring any real call to responsible action

Sincerely,

A handwritten signature in cursive script, appearing to read 'Wendy Harris', written in dark ink.

Wendy Harris  
234 Salt Springs Road  
Syracuse, NY 13224

**P-5**

**Spera, Michael**

---

**From:** Lovejoy, Donald [dlovejoy@nyaaa.com]  
**Sent:** Sunday, November 05, 2006 7:37 PM  
**To:** derweb@gw.dec.state.ny.us  
**Subject:** Onondaga Lake Clean Up

Mr. Larson,

I don't know what kind of effect my opinion will draw on the situation of cleaning up Onondaga Lake but recently I have found the need to participate in my community and government.

**1**

Personally I would like to see the lake cleaned and put to good use. However, according to the article I read on the WTVH.com site, the proposed method of cleaning the lake is not the solution to keeping it clean. In fact the article suggested that in 50 years we will have the same problem and I for one will still be around to deal with that issue.

The other reason I would be against the project is the \$451 million. That just seems like an awful lot of money that could be put to a use that is guaranteed to raise our standard of living in the Syracuse area.

**2**

Thank you for taking time to listen to the opinions of other people in the area.

Sincerely Your,

Don Lovejoy  
13 1/2 Water St.  
Baldwinsville, NY 13027  
(315) 415-1597

11/17/2006

**Spera, Michael**

---

**From:** Verne N. Rockcastle [vnr2@cornell.edu]  
**Sent:** Friday, October 20, 2006 9:08 AM  
**To:** tjlarson@gw.dec.state.ny.us  
**Subject:** Lindsay Speer's comments on Onondaga Lake Cleanup

1

Lindsay and Tom, I appreciate very much your having shared with me details on the cleanup that is being planned for Onondaga Lake. I also fully appreciate your comments about the morality of the operation when compared with what the lake used to be and could be if not for the obvious greed of Honeywell and its various associates. Most of all, Lindsay, I want to congratulate you on your assertive stance on cleanup. I hope you have touched a lot of souls and hearts, and that you have opened the door on \$upport.

In my own case, I am deeply involved in fighting a privateer whose announced and determined objective is to open up about 6,000 acres of prime wilderness of the Adirondacks near Tupper Lake for the purpose of building condominiums, enlarging and upgrading a downhill ski complex, and building a shooting preserve in one of the loveliest, most pristine spots in the area -- on the shore of a lake where loons now nest. It is strictly greed that motivates such a development, no matter what \$ocially and fi\$cially appealing the developers' plans look to a limited income Adirondack community. We also are holding our breath to see that the renowned, but perhaps gutless, Adirondack Park Agency will do when push comes to shove.

At all levels, it seems, the final and most telling pre\$\$ure comes in the form of private and industrial profit. I wonder if universities, who produce some of the sharpest minds, shouldn't make more of an effort to instill community and environmental ethics along with political science and history.

Keep up your good work, Lindsay, and if and when you get a spare moment, I'd love to hear personally from you.

Best wishes,

Verne Rockcastle

Tim Larson - Onondaga Lake

P-7

**From:** Bob Walker <bobphoto@verizon.net>  
**To:** <derweb@gw.dec.state.ny.us>  
**Date:** 11/14/2006 9:27:52 AM  
**Subject:** Onondaga Lake

---

*To Whom It May Concern:*

1

*I have just received notice of your solicitation for ideas in use of our Onondaga Lake for conservation and recreational use. Below are some of my suggestions.*

*More free and easier access for non powered boats such as canoes and kayaks. Limit the size of horse power motors or powered boats altogether allowed on the lake. This is done in Canada at some of it's provincial parks.*

*Have observation platforms where Nine Mile Creek and the lake meet as this is a gathering place for waterfowl during migration time. This platform should be handicap accessible also and enough parking provided.*

*Plantings of native trees and shrubs that are attractive to wildlife such as birds. Along the shoreline.*

*Make invisible by what ever means towers and their lights that show around the shoreline of this otherwise beautiful lake. Clean up the debris along the shoreline. Have County Parks start with the concrete that lies in the water along it's shoreline. Any trails around the lake should be surfaced with environmentally and healthier footing such as wood-chips instead of oil based pavements or expensive stone dust.*

*The County parks should also clean up the garbage and debris at the mud lock and along it's river shoreline of the Park. This at times is a real eyesore.*

*Well this concludes my suggestions and I thank you for listening. Hopefully some if not all of my suggestions can be initiated and will*



*enhance a great asset to our community.*

*Respectfully yours,  
Mr. Bob Walker  
129 Ross Park  
Syracuse, N.Y.*

13208

*Tel. ••• 474-2820*

Sir:

Please take notice that the within is a true  
copy of  
duly filed and entered in the office of the Clerk  
of \_\_\_\_\_ County, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 20 .

Yours, etc.,  
ELIOT SPITZER  
Attorney General,

Attorney For

Office and Post Office Address  
120 Broadway, New York, NY 10271  
To \_\_\_\_\_, Esq.

Attorney for

Sir:

Please take notice that the within  
  
will be presented for settlement and signature herein  
to the Hon. .  
one of the judges of the within named Court, at

in the Borough of \_\_\_\_\_  
City of New York, on the \_\_\_\_\_ day of \_\_\_\_\_  
20 , at \_\_\_\_\_ M.

Dated, NY, \_\_\_\_\_, 20

Yours, etc.  
ELIOT SPITZER  
Attorney General,

Attorney For

Office and Post Office Address  
120 Broadway, New York, NY 10271  
To \_\_\_\_\_ Esq.

89-CV-815 Chief Judge Scullin  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK and DENISE SHEEHAN  
as Trustee of the Natural Resources,

Plaintiffs,

-against-

HONEYWELL INTERNATIONAL INC.,

Defendant.

REQUEST FOR APPROVAL AND ENTRY OF  
PROPOSED CONSENT DECREE

ELIOT SPITZER

Attorney General

NORMAN SPIEGEL

Attorney for Plaintiffs

Office and Post Office Address  
120 Broadway, New York, NY 10271  
Tel. 212 416-8454

Personal service of a copy of

within

is admitted this \_\_\_\_\_ day of \_\_\_\_\_

20 .

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----	X	
	:	
STATE OF NEW YORK and DENISE M. SHEEHAN as	:	
Trustee of the Natural Resources,	:	
	:	
Plaintiffs,	:	89-CV-815
	:	
-against-	:	
	:	Chief Judge Scullin
HONEYWELL INTERNATIONAL INC.	:	
	:	
Defendant.	:	
-----	X	

**REQUEST FOR APPROVAL AND ENTRY OF  
PROPOSED CONSENT DECREE**

**APPENDIX A, PART 2  
APPENDIX B**

**DATED: DECEMBER 21, 2006**



1  
2 NEW YORK STATE  
3 DEPARTMENT OF ENVIRONMENTAL CONSERVATION

4 PUBLIC HEARING  
5 on  
6 ONONDAGA LAKE CONSENT DECREE

---

7  
8  
9 DATE: OCTOBER 19, 2006

10 TIME: 7:08 to 8:50 p.m.

11 LOCATION: Art and Home Building  
12 Martha Eddy Room  
13 581 State Fair Boulevard  
14 Syracuse, New York  
15 BEFORE: Kenneth P. Lynch  
16 NYSDEC  
17 Regional Director  
18 615 Erie Boulevard West  
19 Syracuse, New York 13204-2400  
20  
21  
22  
23  
24

1           Onondaga Lake Consent Decree - 10-19-2006  
2   SPEAKERS:  
3       Bob Czaplicke  
      Jim Farrell  
4       Jeff Freedman, Ph.D.  
      Bill Pease  
5       Thane Joyal, Esq.  
      Susan P. Hammond  
6       Sherry Mossotti  
      Bryan Campbell  
7       Erin B. Cunningham  
      Ms. Furlong  
8       Russ Andrews  
      Terry Brown  
9       Lindsay Speer  
      Bob O'Leary  
10      Casey Cleary-Hammarstedt  
11  
12  
13  
14  
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16  
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18  
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23  
24



1 Onondaga Lake Consent Decree - 10-19-2006

2 (The hearing commenced at 7:08  
3 p.m.)

4 MR. LYNCH: It looks like we're  
5 ready. Good evening, everyone. My name is Ken  
6 Lynch, I am the regional director for Region Seven  
7 New York State D.E.C., and I want to welcome you all  
8 to tonight's Onondaga Lake meeting.

9 We're actually going to conduct the  
10 meeting in basically three parts tonight. The first  
11 part will be a short overview of the lake cleanup;  
12 what's happened recently, what we've done since we  
13 last met, about a year and a half ago, here in this  
14 room, just to bring you up to speed on all the  
15 activity going on, with the cleanup of Onondaga Lake,  
16 and to focus on the recent consent decree that was  
17 signed with Honeywell.

18 The second part of the meeting,  
19 will be set up to take official public comment on  
20 that consent decree, which I'll talk about. And the  
21 third part, if there are any questions that you may  
22 have of D.E.C. and staff here tonight, we will field  
23 and answer questions to the extent possible, and then  
24 also be available after the meeting. We have a lot

1           Onondaga Lake Consent Decree - 10-19-2006  
2   of displays, and a lot of experts here to talk to you  
3   about the lake cleanup.

4                       So, getting right into the  
5   presentation. The purpose of tonight's meeting. We  
6   want to -- like I said, we want to update you on the  
7   progress that we've made since we've last met, I  
8   think it was February of last year. We want to  
9   outline the consent decree that was recently by the  
10   state and Honeywell, and we want to receive your  
11   public comments in regards to that consent decree.

12                      There's been a lot of progress made  
13   on the lake, in recent years, specifically since we  
14   last met here in February of 2005. We're not going  
15   to talk an awful lot about the improvements at the  
16   county wastewater treatment plant, but that is a big  
17   part of the lake cleanup. Under a separate agreement  
18   with Onondaga County, there are significant  
19   improvements being made to the METRO-treatment plant,  
20   and also to address combined sewer overflows. Those  
21   improvements are resulting in significant water  
22   quality improvements to Onondaga Lake.

23                      Although we're not going to talk a  
24   lot about those improvements tonight, I am going to

1           Onondaga Lake Consent Decree - 10-19-2006  
2       give a little pitch for the Onondaga Lake  
3       Partnership, which is holding their annual meeting on  
4       October 30th, and the focus of that meeting is going  
5       to talk about some of the improvements to the lake  
6       water quality, so I encourage you all to come out for  
7       that meeting also.

8                       We're going to give you an overview  
9       of the four-hundred-and-fifty-one million-dollar  
10      remedial plan, that was finalized by the New York  
11      State D.E.C., and the E.P.A., last July. When we  
12      last had a public meeting in February, the purpose of  
13      that meeting was to discuss that proposed plan.  
14      After that public session, and after responding to  
15      all of your comments, we finalized the plan in July  
16      of 2005.

17                      There's been a lot of progress to  
18      upland sites. The plan that I just referenced talks  
19      and addresses the lake bottom itself, in cleaning up  
20      the sediments. But there's more to Onondaga Lake  
21      cleanup than just addressing those sediments. We  
22      must also address the upland sites that are still  
23      impacting the lake. There's been a lot of progress  
24      on cleaning up those sites. There's been a lot of

1 Onondaga Lake Consent Decree - 10-19-2006  
2 additional investigation in the lake, and near the  
3 lake, partly in response to the finalized plan, and  
4 the commencement of some preliminary design work, so  
5 that we can get into implementing the plan.

6 The primary purpose of this  
7 meeting, is to talk about the consent decree, that  
8 was signed by the D.E.C., state attorney general's  
9 office and Honeywell. We really want to focus on  
10 that agreement. That was -- that is why we're having  
11 this public meeting tonight, and a public comment  
12 period. And we'll get into the details of that, and  
13 respond to your questions in regards to that consent  
14 decree.

15 And as a reminder, this is part of  
16 the public comment period, for that consent decree  
17 that started on October 12th, and will run through  
18 November 13th.

19 The record of decision, or the  
20 final plan, that was approved by New York State  
21 D.E.C. and E.P.A. last July 2005. I just want to  
22 give a brief overview of this plan. There's been a  
23 lot of discussion about the plan, both recently and  
24 in the past, and I wanted to reiterate the main

1           Onondaga Lake Consent Decree - 10-19-2006  
2       aspects of that plan, which was approved last July,  
3       and is proceeding, and is the subject of the  
4       agreement with Honeywell. Basically, it's an  
5       agreement to implement the plan that was approved  
6       last year.

7                       The plan establishes goals:  
8       Achieves sediment concentrations that are protective  
9       of fish and wildlife; achieve concentrations in fish  
10      tissues that are protective of humans and wildlife,  
11      that consume the fish; and achieve surface water  
12      standards. Basically, clean up the sediments, and  
13      clean up the water quality.

14                    The plan addresses remediation of  
15      all areas in the lake, where the surface sediments  
16      exceed cleanup levels. Basically, we split up the  
17      lake into eight separate sections, determined what  
18      type of contaminants were in each and every section,  
19      and then determined what cleanup levels were  
20      necessary to achieve those goals that I previously  
21      stated. The plan calls for dredging of an estimated  
22      two point six million cubic yards of sediment, and a  
23      capping of an estimated five hundred and seventy-nine  
24      acres of the lake.

## 1 Onondaga Lake Consent Decree - 10-19-2006

2 The most highly contaminated  
3 sediments that are dredged will be disposed of off  
4 site, and the remaining sediments will be disposed in  
5 an engineered sediment containment area, in one of  
6 Honeywell's Solvay wastebeds. Part of the plan  
7 includes an oxygenation pilot study of the deeper  
8 portion of the lake to see if we can reduce mercury  
9 from entering the water.

10 The plan also includes habitat  
11 reestablishment. Obviously, when you dredge a lake,  
12 you're going to cause some problems with the habitat.  
13 We are requiring as part of the plan, for Honeywell  
14 to reestablish what they tear up as they do the  
15 dredging.

16 The plan goes further than just  
17 reestablishment. It calls for enhancement of habitat  
18 in certain areas.

19 Very important to this plan, is a  
20 long-term monitoring of the water, the cap, the fish,  
21 of the sediment, of the consolidation area where we  
22 take the sediments, to make sure everything is  
23 working properly, and to make sure this remedy is  
24 protective of human health and the environment.



1 Onondaga Lake Consent Decree - 10-19-2006

2 As I previously stated, the  
3 estimated cost of this plan is four hundred and  
4 fifty-one million dollars. And again, this is a plan  
5 that was approved by both D.E.C., and the state of  
6 New York.

7 Over the past year or so, I've  
8 heard a lot of comments from people. Is this  
9 Honeywell's plan; is this the state's plan; or is  
10 this a different plan? This is a plan that was  
11 approved by both the state and federal government.  
12 What we are announcing -- what we announced last  
13 week, and are talking about today, is Honeywell's  
14 agreement to implement that plan. Not a compromise  
15 of the plan that was -- that was approved last July.  
16 That's the brief summary of the proposed -- or the  
17 approved plan.

18 a, and we're anticipating to announce a proposed  
19 plan, sometime in 2007.

20 Wastebeds one through eight, which  
21 run along the western shore of the lake, are being  
22 investigated to determine what type of remedial  
23 action will be necessary for those.

24 And the Salina landfill, which is

1           Onondaga Lake Consent Decree - 10-19-2006  
2   not located right on the lake, but potentially  
3   impacts the lake from contaminants coming down Lake  
4   Creek, is going to be addressed with a proposed plan,  
5   announced sometime before the end of this year.

6                       So, as I stated, the plan itself,  
7   that we announced last year, addresses the lake  
8   bottom, and that's very important to address the  
9   sediments, and to clean up the lake bottom itself,  
10   but equally important is addressing those upland  
11   sites; and as I stated, there's a lot of progress  
12   being made.

13                      This just gives you an example of  
14   some of the cleanup activity that is going on. This  
15   is the former L.C.P. site, and the cleanup that's  
16   been -- that has been substantially completed at this  
17   time. Not only did we address the on-site mercury  
18   contamination, but we addressed a lot of off-site  
19   impacts, from that on-site contamination in the  
20   wetlands and streams, that are nearby the L.C.P.  
21   Site.

22                      I mentioned the barrier wall along  
23   the western shore of the lake. Part of what we call  
24   an interim remedy, is to cut off the groundwater that

1           Onondaga Lake Consent Decree - 10-19-2006  
2   is currently impacting the lake. There is still  
3   contaminated groundwater from upland sites reaching  
4   the lake, carrying contaminants to the lake, and  
5   impacting the lake itself. Part of the plan, is to  
6   cut off that groundwater with a barrier wall.  
7   Collect the groundwater, take it back to the  
8   completed wastewater treatment plant and treat it,  
9   and discharge it back to the lake, consistent with  
10   our water quality standards.

11                   And so, it's very important that,  
12   prior to starting any dredging activity, or any  
13   cleanup activity in the lake itself, that you  
14   eliminate the damage that is being caused now,  
15   through groundwater -- contaminated groundwater  
16   reaching the lake. So, it's very important that we  
17   construct this wall. Honeywell commenced last week,  
18   the first section of this wall, approximately twelve  
19   hundred feet, along the western shore, and this is  
20   just an example of the steel that they're driving to  
21   start the commencement of that barrier wall.

22                   By the way, a couple of people have  
23   asked me, is it going to stay that high? No. The  
24   barrier wall is going to be driven all the way down

1           Onondaga Lake Consent Decree - 10-19-2006  
2   below grade level, so you won't actually see the  
3   wall, as you're driving down 690. I mentioned  
4   collecting that water behind that barrier wall, the  
5   contaminated groundwater, and having to clean it up  
6   before you discharge it back to the lake. And this  
7   is a treatment plant, located on the old Willis Ave  
8   site, that through piping underneath 690, the  
9   collection of the water, caught at the barrier wall,  
10   will be pumped back to this treatment plant, treated,  
11   and then ultimately discharged to the lake. In  
12   addition to actual cleanup working going on, on the  
13   upland site, there's been an awful lot of additional  
14   investigation, since the announcement of the plan  
15   last year.

16                   A lot of people have talked about,  
17   "well, you -- you announced the plan last year, in  
18   July, but what has happened since? It took you this  
19   long to get an agreement with Honeywell. You've lost  
20   a year or so of time in -- in cleaning up the lake."

21                   Well, that's not necessarily true.  
22   There's been a lot of ongoing work undertaken by  
23   Honeywell, even without an agreement to implement the  
24   overall plan, to do further investigation in the

1 Onondaga Lake Consent Decree - 10-19-2006

2 lake.

3 Just to give you an example, the  
4 amount of investigation that has been conducted over  
5 the past year and a half, about three hundred core  
6 samples in the lake, and that results in actually two  
7 thousand different samples taken from the sediments  
8 of Onondaga Lake itself.

9 On the wastebeds, there were  
10 further studies to be done, to look at the  
11 feasibility of putting the sediment containment area  
12 on those wastebeds. And near the shoreline, there  
13 was a lot of work, in regards to structural integrity  
14 of the barrier wall, and the relationship between  
15 that shoreline, and dredging close to that shoreline.  
16 You may have seen these boats out in the lake over  
17 the past year and a half, they are out there actually  
18 coring into the sediment, and taking samples, to  
19 determine, in more detail, the extent of  
20 contamination, to help us design the actual dredging  
21 project, design the barrier wall, and other factors  
22 associated with the cleanup of the lake. Now, I'm  
23 going to talk about the primary purpose of tonight's  
24 meeting, and last week, when we announced the

1           Onondaga Lake Consent Decree - 10-19-2006  
2       agreement with Honeywell, we referred to it as an  
3       historic agreement. It is an historic agreement.  
4       Honeywell has agreed to implement a  
5       four-hundred-and-fifty-one-million-dollar cleanup  
6       plan. I am not aware of any other agreement, of this  
7       size and nature, and a commitment to address a  
8       remediation project of this size in New York State.

9                       Certainly the Hudson River cleanup  
10      does rival Onondaga Lake cleanup, but that's more in  
11      conjunction with an E.P.A. oversight cleanup. This  
12      one is the largest D.E.C. cleanup in New York State.

13                      What the consent decree is:  
14      Basically, it's the legal requirement for Honeywell  
15      to implement that  
16      four-hundred-and-fifty-one-million-dollar plan. It  
17      was signed by Honeywell, our New York State D.E.C.  
18      commissioner, and the attorney general's office, and  
19      it has been filed with the federal district court.  
20      There is currently a legal action, and has been since  
21      1989, where the state sued Honeywell's predecessor,  
22      Allied, to address these hazardous wastes in the  
23      lake. That ongoing litigation, at least a portion of  
24      that, is proposed to be settled in this consent



1           Onondaga Lake Consent Decree - 10-19-2006  
2       decree. And it's settled by Honeywell agreeing to  
3       implement the  
4       four-hundred-and-fifty-one-million-dollar plan.

5                       The plan has not -- the consent  
6       decree has not been entered with the court. It has  
7       been filed. It is subject to this thirty-day public  
8       comment period that we're holding now.

9                       The major components of the consent  
10      decree. Basically, this agreement requires Honeywell  
11      to submit a remedial design, including a schedule and  
12      citizen participation plan. Within a hundred and  
13      fifty days of entering this consent decree with the  
14      court, Honeywell needs to submit to the D.E.C., for  
15      approval, a detailed schedule and outline of how  
16      they're going to design this plan, and actually  
17      implement it. Part of that is a citizen  
18      participation plan, that's going to be proposed by  
19      Honeywell. Much of the citizen participation will be  
20      conducted by the D.E.C.

21                      As I said, back, last year when we  
22      met, and we talked about the lake. We are going to  
23      make extra efforts to reach out to the public. To  
24      make sure -- because this is a huge, and very complex

1           Onondaga Lake Consent Decree - 10-19-2006  
2       cleanup plan, to make sure that you are involved in  
3       the process, and you are made aware of the developing  
4       events, as this plan gets designed. It's a very big  
5       plan. It, in some cases, is a very detailed plan.  
6       But there's still a lot of work that needs to be  
7       specified. A lot of design work that needs to be  
8       done, and we're going to need you input, as we design  
9       that. We're going to want your input, as we design  
10      that. And we're going to want inform you, as certain  
11      stages are improved, and as we move forward with some  
12      of the cleanup work.

13                       Once that design is -- design work  
14      plan is done, they actually do the -- are required to  
15      commence the design work. And once we approve the  
16      design work, they're required to actually construct.  
17      Do the dredging. Do the capping. Do the monitoring.  
18      Do everything else associated with the cleanup plan.

19                       And as I previously stated, they're  
20      obligated to perform a long-term operation monitoring  
21      and maintenance plan. That's to assure that  
22      everything is working. They're obligated to pay  
23      state costs. I mean, not only is Honeywell obligated  
24      to pay the costs associated with designing, and

1           Onondaga Lake Consent Decree - 10-19-2006  
2       actually doing the work, they're obligated to  
3       reimburse the New York State D.E.C. for the expenses  
4       that we incur.

5                       One of the benefits of having an  
6       agreement, with a responsible party for a hazardous  
7       waste cleanup, is that the costs are covered, not  
8       only of the cleanup itself, but the costs of our  
9       oversight of the cleanup. So, it's certainly a  
10      benefit to the taxpayers.

11                      And last, but certainly not least,  
12      it -- the consent decree provides for a financial  
13      assurance information from Honeywell. One of the  
14      things we heard a lot about during the review of the  
15      proposed plan in 2005, was that, "well, how do we  
16      know Honeywell's going to be around next year; or  
17      five years from now; or twenty years from now, to  
18      make sure that all this work gets done, and to make  
19      sure that it's properly monitored?" The consent  
20      decree has a provision, where on a yearly basis, the  
21      state will receive financial information from  
22      Honeywell, to make sure they are still viable to  
23      proceed with the required work under this agreement.  
24      If at any time that we believe that there may be a

1           Onondaga Lake Consent Decree - 10-19-2006  
2   problem with their financial ability to undertake  
3   this obligation, we can require additional financial  
4   assurance.

5                       In addition to all those  
6   requirements that I went through, that requires  
7   Honeywell to undertake certain obligations under the  
8   consent decree, the consent decree also speaks to two  
9   other things. A proposed explanation of significant  
10   differences, and a statement of work.

11                      And simply put, an explanation of  
12   significant differences, is a proposal to slightly  
13   modify the cleanup plan, in respect to one aspect of  
14   the plan itself, and I'll get into the details of  
15   that in a moment. It also includes a statement of  
16   work. Basically a statement of work is more detail  
17   than was originally set forth, in the proposed plan  
18   itself. It offers some more design detail, that  
19   based on information that we have gained, since the  
20   approval of the ROD back in July, we are now  
21   fine-tuning some of the design aspects associated  
22   with the plan, in the statement of work.

23                      Major components of the explanation  
24   of significant differences, and I'm going to refer to

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2       this as an E.S.D. I apologize for the abbreviation,  
3       but as some of you know, we live in on abbreviations.  
4       E.S.D. But is basically, as I stated, a slight  
5       modification in the proposed plan. Based on  
6       additional investigation that we conduct in 2005 and  
7       2006, we have redefined some of the more heavily  
8       contaminated areas in the Southwest corner of the  
9       lake. Basically, we have found that some of the  
10      contamination in that area was not as bad as  
11      originally anticipated. We've also, Honeywell has  
12      conducted, and submitted to the D.E.C. For review, a  
13      geotechnical evaluation, and analysis of utilities,  
14      located along that Southwestern shore. And based on  
15      all that information, we have proposed to construct  
16      part of the barrier wall, twelve hundred feet of the  
17      proposed barrier wall that's going along that western  
18      shore, approximately fifty feet out into the lake  
19      itself. That does not necessarily mean that we are  
20      going to lose lake surface.

21                   Also included in this proposed  
22      E.S.D., is language that will require Honeywell to  
23      mitigate for the loss of aquatic habitat, and  
24      construct a natural shoreline, lakeward of the

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2       barrier wall. And just to give you a photo of what

3       we're talking about, you're looking at the

4       southwestern shore of the lake. This is basically

5       the southwestern corner, and the entire distance of

6       the proposed barrier wall, runs from this point,

7       which is about at the State Fair Exit of 690, if

8       you're heading west on 690, down to currently where

9       the causeway runs along the lakeshore, and then this

10      area right here you see, is actually the wall is out

11      into the lake. That is the proposed E.S.D., and

12      where we are moving the wall out into the lake. What

13      it will mean is, not dredging in this area. Instead,

14      we're capturing all the groundwater, and will be

15      putting wells behind this to collect the

16      contamination.

17                      The primary purpose of that is that

18      we did not have the extent of contamination out here

19      that we originally anticipated. And probably most

20      importantly, that after some geotechnical studies, we

21      have determined that dredging right up next to this

22      causeway, could potentially cause significant

23      geotechnical problems, with not only the causeway

24      itself, but route 690.



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2 So, Honeywell has proposed, and we  
3 are proposing, as part of the explanation of  
4 significant differences, which is part of the consent  
5 decree, to move this out into the lake a small  
6 portion. Again, any lost surface area here, will be  
7 mitigated by Honeywell somewhere else in the lake.

8 The rest of the barrier wall will  
9 return back to the shoreline, and run all the way  
10 down to Harbor Brook.

11 Statement of work. Basically,  
12 attached to the consent decree, a defining of some of  
13 the more design details, associated with the cleanup  
14 plan. It provides design details in regards to  
15 dredging and the barrier wall. It provides details  
16 in criteria for the isolation cap, that is proposed  
17 in the final plan. It allows for different  
18 alternatives. We received some new scientific  
19 information from the scientific community last  
20 summer. Instead of oxygenating the lake, we may look  
21 at other alternatives, to reduce the mercury  
22 methylation in the lake.

23 It further defines the dredged  
24 sediments, including a proposal to construct a

1           Onondaga Lake Consent Decree - 10-19-2006  
2       sediment containment area, and an engineered cell,  
3       and wastebed thirteen.

4                       When the plan was announced last  
5       July, it looked at the alternatives of -- or proposed  
6       disposing of the sediment on the wastebed --  
7       someplace on the wastebed. It specifically  
8       referenced wastebed thirteen as the -- possibly the  
9       best solution. But since that time, Honeywell has  
10      conducted a feasibility study, to look at all of the  
11      wastebeds, and see which one would be best. And  
12      based on that study, we believe that wastebed  
13      thirteen is the best.

14                    And it looked at, that study looked  
15      at a number of things. It looked at impacts on the  
16      community. It certainly looked at the ability to  
17      protect human health and the environment. It looked  
18      at the stability of the wastebeds. It looked at the  
19      accessibility of the wastebeds, for getting these  
20      sediments to that area. And it looked at other  
21      factors associated with putting a sediment  
22      containment area up on those wastebeds.

23                    One difference in the time frames  
24      associated with implementation of this plan. When we

1           Onondaga Lake Consent Decree - 10-19-2006  
2   announced the plan, we anticipated that the design  
3   process would take four years, and the actual  
4   dredging would take an additional four years. After  
5   further work and design, and investigation, we  
6   believe that the actual design phase, because this is  
7   a very complex process, may take a little longer. It  
8   may take up to five years.

9           However, during that five-year  
10   period, we will be requiring Honeywell to not only  
11   continue the design of the dredging and capping  
12   activity, but also design and construct the sediment  
13   containment area, and the wastewater treatment plant  
14   that's necessary to address the water collected in  
15   that sediment containment area. And again, we're  
16   anticipating four years for the actual construction.  
17   The actual dredging and the capping of the lake  
18   itself.

19           Just a little more detail in  
20   relation to that sediment consolidation area,  
21   proposed on wastebeds thirteen. It will be built in  
22   accordance with state and federal requirements and  
23   guidance to accept lake bottom sediments. The design  
24   with include in impermeable liner, collection and

1           Onondaga Lake Consent Decree - 10-19-2006  
2       treatment of the water generated, and a protective  
3       cover for closure.

4                       Again, a lot of those details are  
5       going to be worked out during the design phase. As  
6       we did last year, when we announced the plan, we will  
7       meet with the town of Camillus, and we will keep them  
8       advised of the details of the implementation and  
9       design of the sediment containment area, and we'll  
10      pay particular attention to the community concerns,  
11      to address things like odor control, noise control.  
12      If there is any lighting associated with the sediment  
13      containment area, that will all be addressed during  
14      the design phase, and will include input from the  
15      public.

16                    I previously mentioned the study  
17      that looked at different locations on the wastebeds,  
18      it looked at capacity, access, and geotechnical  
19      considerations, location and current conditions, and  
20      potential future use. One of the things that has  
21      been discussed, quite openly in the -- recently, in  
22      regards to the wastebeds is, you know, we have had  
23      these waste areas for a long, long time, here in the  
24      Syracuse area. There is a lot potential for reuse of

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2     those wastebeds, whether it be planting willow trees,  
3     for alternative fuels. Using those wastebeds for  
4     recreational opportunities. There are other things  
5     that the communities may call for. One of the things  
6     we're looking to do, not only wastebed thirteen,  
7     where the sediment containment area will be, but on  
8     some of the other wastebeds, is looking to the  
9     opportunity to reuse these brownfield sites. This  
10    just gives you an overview of the wastebeds that were  
11    considered, wastebeds nine through fifteen, all  
12    located in the town of Camillus, and the town of  
13    Geddes.

14                   And if I can point to it here,  
15    wastebed thirteen is the one that is being selected  
16    as part of this consent decree.

17                   And that concludes my  
18    presentation/overview of the final plan, overview of  
19    the consent decree, and the documents associated with  
20    it. As I said, the next purpose of this meeting is  
21    to collect your comments. And probably the most  
22    important portion of this meeting is to collect your  
23    comments, and we're going to move right into the  
24    official public comment period. But before we do

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2 that, I want to just lay out some ground rules, to  
3 make sure we all understand the purpose, and how we  
4 will conduct ourselves tonight at the meeting.

5 Dawn right here is going to have a  
6 microphone, and if you prefer to stay in your seat,  
7 she will take the microphone right to you. If you  
8 prefer to speak in front, you can come up front with  
9 the microphone, and speak to the audience. Before  
10 making your official comments, I would request that  
11 you state your name, and spell your name. We do have  
12 stenographer here, who is recording this meeting, so  
13 we would like to make sure we're clear on your names  
14 and spelling.

15 We ask you to be short and concise.  
16 We have a decent crowd here tonight. We want to make  
17 sure we hear from everybody.

18 Try not to repeat over and over  
19 again, statements that were previously made. Just a  
20 reminder, that if you don't have an opportunity, or  
21 you forget to say something, or you're not  
22 comfortable speaking to the public, whether we  
23 receive comments tonight from you orally, or whether  
24 you submit written comments before the November 13th



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2       deadline, all of those comments will be considered  
3       equally.

4                       We're taking your comments for this  
5       period. We're not going to be responding to  
6       questions at this point. We'll do this after the  
7       formal public comment period. I'm not going to set a  
8       time limit. I'm not a big fan of limiting people's  
9       opportunity to speak, but I would ask you to be  
10      considerate of others who want to speak tonight. And  
11      if we have to move you along, we will, and maybe get  
12      back to you afterwards, or ask that you submit the  
13      remaining comments in writing. But I'll be pretty  
14      liberal with letting you speak tonight.

15                      And last, but not least, just as we  
16      typically do at D.E.C. meetings, we will start off  
17      with a few public officials that have asked to speak  
18      at tonight's meeting, to make their official  
19      comments, and then we'll move into the rest of the  
20      speakers, in order that they were -- they signed up  
21      to speak. There was a sign-up sheet in the back, a  
22      little card to fill out, if you wanted to speak. If  
23      you didn't do that, and would like to, I'd ask you to  
24      go in the back of the room, and the two young ladies

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2 back there.

3 Raise your hands. Thank you.

4 Will sign you up to speak, and

5 they'll bring them up here, and have you speak.

6 At the end, I'll make one last plea

7 for any public comments, if you don't have an

8 opportunity to sign up.

9 Okay. That being said, we'll start

10 with our first speaker, and that is Supervisor Bob

11 Czaplicke, town of Geddes.

12 Do you want the microphone, Bob.

13 MR. CZAPLICK: Yeah.

14 MR. LYNCH: Yeah.

**O-1** 15 MR. CZAPLICK: Hi, my name is Bob

16 Czaplicke, I'm the supervisor of the town of Geddes,

**1** 17 and I'm here this evening to indicate how excited we

18 in the town are over the consent decree and the lake

19 cleanup.

20 News of this consent decree has

21 been very encouraging. Honeywell has done many

22 positive things in our community throughout the last

23 several years. They have -- and I think you saw in

24 the -- in the presentation before, some of the things

1           Onondaga Lake Consent Decree - 10-19-2006  
2       they've done, and I won't mention all of them. But  
3       they've been a good partner in our community for  
4       refurbishing some of these areas, and I, for one, am  
5       very excited about this.

6                   A little over a year ago, Honeywell  
7       showed our town plans for a Willis Ave ground  
8       treatment water (sic) facility, it's in effect.  
9       Honeywell transformed an overgrown former Allied  
10      property, into a wildlands and light industrial site.  
11      This improved the appearance of the area. The good  
12      is -- it is a good example of the turn around that  
13      has taken place.

14                   Onondaga Lake cleanup is finally  
15      becoming a reality, and will bring many great new  
16      opportunities to our community, and I, for one, am  
17      excited about it.

18                   Thank you.

19                   MR. LYNCH: Next is Jim Farrell,  
20      Onondaga County Legislator.

21                   MR. FARRELL: Thank you. My name  
22      is Jim Farrell, I'm the Onondaga County Legislator  
23      for the Liverpool area. And tonight, I think I speak  
24      not only for myself, but for the vast majority of my

**O-2**

1 Onondaga Lake Consent Decree - 10-19-2006  
2 constituents.

1

3 Mr. Lynch, your office, the D.E.C.,  
4 has previously done an excellent job of representing  
5 both the community and the environment, as we've  
6 seen. I think with this plan, you've done it --  
7 you've done it again.

8 I think this plan, if -- if  
9 Honeywell -- if Honeywell does represent a good -- if  
10 they live up to not -- not only their legal  
11 obligations, as a good corporate citizen, but also  
12 their ethical and moral obligations, this community  
13 will benefit immensely, in moving forward on this, in  
14 not delaying it any further.

15 There's strong support in my  
16 constituency in continuing this.

17 (Off-the-record discussion)

18 MR. LYNCH: Dawn, is that mic  
19 working?

20 (Off-the-record discussion)

21 MR. LYNCH: Okay. Next speaker is  
22 Jeff Freedman, Onondaga Yacht Club.

O-3

23 You want to try that?

24 DR. FREEDMAN: As commodore of the

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2 Onondaga Yacht Club, I submit this testimony on  
3 behalf of the families that constitute the membership  
4 of our club, and also on behalf of other recreational  
5 boaters who enjoy Onondaga Lake. I am pleased to  
6 indicate our full support of the New York State  
7 D.E.C. cleanup plan, which promises to bring Onondaga  
8 Lake into compliance with the standards set forth in  
9 the Federal Clean Water Act.

1

10 Members of Onondaga Yacht Club have  
11 engaged in recreational boating on Onondaga Lake  
12 since 1885. Presently, some sixty families comprise  
13 our membership. In addition, this year we  
14 established a Sea Scout Ship at the club, to enable  
15 teenagers and young adults to use our club-owned  
16 boats and facilities to sail on Onondaga Lake. Our  
17 families and our club own about fifty boats on which  
18 we enjoy boating, and boating-related activities  
19 associated with our club, which is located adjacent  
20 to Onondaga Lake Park Marina, in the village of  
21 Liverpool.

22 As recreational boaters, who  
23 frequent the lake daily during the spring, summer,  
24 and fall boating seasons, we are appreciative of the

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2       reduced bacteria levels, the increased water clarity,  
3       and the return of natural aquatic vegetation, and  
4       native fish species, already evident in our cleaner  
5       lake.

2

6                       We thank Ken Lynch and his staff at  
7       the D.E.C., the officials and staff at the E.P.A.,  
8       and employees and representatives of the Honeywell  
9       Corporation, all of whom have informed us, interacted  
10      with us, and listened to our needs and concerns,  
11      during this most recent planning phase of the cleanup  
12      of Onondaga Lake. From our extensive boating  
13      experience on Onondaga Lake, we know firsthand what a  
14      magnificent treasure and resource our lake is, and  
15      can be, to the citizens of Central New York, and to  
16      tourists who visit us.

17                      We envisage a time, not too far in  
18      the future, when Onondaga Lake will abound with even  
19      greater numbers of sailboats, fishing boats, and  
20      rowing shells, every nice day of the boating season.  
21      Enhanced educational sailing, rowing and fishing  
22      programs for children, adults and seniors will enable  
23      our citizens to enjoy what we at O.Y.C. have already  
24      enjoyed on our lake.



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2 Boating on Onondaga Lake

3 complements the spectrum of recreational activities  
4 in the surrounding Onondaga Lake Park, which is so  
5 ably managed by Onondaga County Parks Commissioner  
6 Robert Geraci, and Area Park Superintendent Robert  
7 Ellis.

8 Our yacht club, our lake, and our  
9 county have all adopted the name Onondaga, in honor  
10 of the People of the Longhouse, who hosted the  
11 councils, where reason prevailed, and where important  
12 decisions were made. Sailing quietly on Onondaga  
13 Lake, and canoeing on its tributaries, as we have  
14 done, promotes a sense of peace and harmony with  
15 nature, in full accordance with the philosophy of the  
16 people of the great Iroquois Nation.

17 Recently, while boating on the  
18 lake, I saw a juvenile eagle perched on the topmost  
19 branch of an old dead tree. The image of that young,  
20 strong eagle, on top of the old dead tree, is etched  
21 in my mind as a dramatic and powerful symbol of the  
22 rebirth of Onondaga Lake.

23 Later I saw the eagle circling over  
24 Hiawatha Point. It is imperative that we begin this

1           Onondaga Lake Consent Decree - 10-19-2006  
2       critical phase of removing toxins from the food chain  
3       in Onondaga Lake, as expeditiously as possible. Not  
4       only for the generations of boaters who will follow  
5       us, but also for the health and safety of the great  
6       blue herons, the green herons, the American eagles,  
7       the gulls, the geese, the ducks, and many other  
8       resident and migratory waterfowl, who routinely  
9       ingest the algae, the plants, and the fish of  
10      Onondaga Lake.

11                   And we look forward to being able  
12      to eat, without concern, the fish caught in Onondaga  
13      Lake, and to enhance our recreational boating  
14      activities, by swimming in our lake on hot summer  
15      days.

16                   Now, we -- we have no reason to  
17      question the expertise of the skilled and dedicated  
18      environmental scientists and engineers, who have  
19      devised the strategies to clean the water and  
20      sediments of Onondaga Lake. We do, however, offer  
21      three suggestions and requests, which are intended to  
22      optimize the benefits for recreational boaters.

4       23                   The first suggestion refers to the  
24      creation of plant-free zones. During the past two

1           Onondaga Lake Consent Decree - 10-19-2006  
2       summers, the increased water clarity and dramatic  
3       reduction of toxic ammonia levels, have been  
4       associated with the prolific growth of aquatic plants  
5       in the shallow waters around the entire periphery of  
6       Onondaga Lake, including the Onondaga Lake Park  
7       Marina basin, its access channel, and the shoal  
8       located in front of our clubhouse, where we conduct  
9       our junior sailing school. The heavy growth of eight  
10      species of identified aquatic plants, primary the  
11      common aquarium plant Elodea, has significantly  
12      interfered with navigation in the marina basin, in  
13      the access channel leading from the marina basin to  
14      the deeper portion of the lake, and in the shallow  
15      waters in front of our clubhouse.

16                   The long strands of aquatic plants  
17      entangle with the rudders and the centerboards of our  
18      sailboats, making it difficult for the children and  
19      other sailors to access the lake, when sailing out  
20      from the shore, and to return home safely. The  
21      filamentous plants wind around our boat propellers,  
22      causing our outboard motors to overheat and stall in  
23      the marina basin, with loss of steerage and possible  
24      risk of property damage or personal injury.

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Consequently, we request consideration of the possibility that a small portion of sediment management unit number five, on the northern shore, occupied by the marina and its access channel, together with the shoal in front of our club, both be designated as plant-free zones, on the habitat management planning map.

If feasible, we request that a special plant-free cap be designed and installed for these areas. Such a cap would eliminate the need for expensive and inefficient annual mechanical harvesting of aquatic plants, and would promote safe navigation into, out of, and within the marina basin, and in front of our club.

The area where plant-free zones are requested, constitutes only a minuscule fraction of the entire shoreline, so that ample aquatic vegetation would still be present, to serve as breeding grounds for fish and other aquatic species.

Request number two relates to underwater obstructions to navigation, and this is a safety issue. We reiterate our request that in conjunction with the cleanup of Onondaga Lake,

1           Onondaga Lake Consent Decree - 10-19-2006  
2   underwater obstructions to safe navigation should be  
3   marked by standard hazard buoys. This is for the  
4   safety of the D.E.C. boaters, public boaters, and the  
5   Honeywell boaters. The most dangerous obstruction is  
6   indicated by number ten on a map which I am  
7   submitting with my written testimony. It is a  
8   submerged concrete wall, that juts nearly two hundred  
9   meters into the lake, from the village of Liverpool.  
10   This past summer, a charter boat operating out of  
11   Onondaga Lake Park Marina, hit this underwater  
12   obstruction, damaging its propeller and -- and  
13   bottom. Last summer, the same obstruction seriously  
14   damaged the centerboard and rudder of a championship  
15   lightning sailboat, skippered by the North American  
16   Junior Champion Lightning Sailor from Onondaga Yacht  
17   Club. Further unnecessary accidents could be  
18   avoided, if the appropriate public agency officials  
19   would mark the underwater obstruction with standard  
20   hazard buoys, as requested, and has exist on Oneida  
21   Lake, and all of the other more-used lakes.

22                   Ideally, these underwater  
23   obstructions to navigation should be removed as part  
24   of the cleanup plan, but at least they should be

1 Onondaga Lake Consent Decree - 10-19-2006  
2 marked with standard hazard buoys for public safety  
3 as soon as possible.

6

4 Third, regarding the newly proposed  
5 containment wall, to be constructed on the lake, on  
6 the southern shore. We support the idea that a  
7 natural shoreline appearance be restored after the  
8 work is completed, rather than leaving a bulkheaded  
9 structure. The natural appearance of Onondaga Lake,  
10 in our view, as surrounded by the county park, is one  
11 of the lake's greatest assets, and is well worthy of  
12 preservation and restoration.

7

13 To conclude, we at Onondaga Yacht  
14 Club commend and applaud the signing of this historic  
15 pact between representatives of the D.E.C. and the  
16 Honeywell Corporation, and we strongly urge that the  
17 proposed project to clean Onondaga Lake begin as  
18 expeditiously as possible.

O-4

19 MR. LYNCH: Okay. Our next speaker  
20 is Bill Pease.

21 MR. PEASE: Thank you. I'm -- I'm  
22 here as a member of the Onondaga Yacht Club, but also  
23 as a thirty-year resident of the Liverpool community.  
24 My -- my home backs right up to the lake, except for



1 Onondaga Lake Consent Decree - 10-19-2006  
2 a small strip of Onondaga Lake Park, so I have a very  
3 strong interest in the status of the lake, obviously.

4 As I say, I've been a member of the  
5 yacht club for twenty-five years, I sail regularly on  
6 the lake. I've been on the water, I've been in the  
7 water, and so I'm very enthusiastic about this  
8 project, and just am here to basically second the  
9 comments that Dr. Freedman made, on behalf of the  
10 club, and all the members in the club. We look  
11 forward to the prompt conclusion of this project as  
12 prompt as it can be done. And we're very hopeful and  
13 supportive that it will benefit the entire community.

14 Thank you.

15 MR. LYNCH: Next speaker is Thane  
16 Joyal.

17 MS. JOYAL: Hello. I think I was  
18 supposed to spell my name, it's unusual enough that I  
19 will for you. It's Thane, T, as in Thomas, H-A-N-E.  
20 Joyal, J-O-Y-A-L. I'm an environmental attorney  
21 working with the Onondaga Nation. You'll forgive me  
22 if I do a little like an opening statement. However,  
23 I really appreciate the opportunity to present  
24 comments to you tonight on the most recent actions

1           Onondaga Lake Consent Decree - 10-19-2006  
2       that the D.E.C. and E.P.A. are taking on Onondaga  
3       Lake.

4                       You, I hope, will not be surprised  
5       to learn that the Nation, and its lawyers and  
6       experts, are continuing to review the explanation of  
7       significant difference - which I, like Mr. Lynch,  
8       will call E.S.D. from here forward - and the proposed  
9       consent decree memorialized in the record of decision  
10      for the Onondaga lake bottom subsite - which we'll  
11      call the proposed consent decree - and the sediment  
12      consolidation area siting evaluation - the S.C.A.

13                      Further and more detailed comments  
14      on each of the three documents will be submitted in  
15      writing, before the close of the public comment  
16      period, and will supplement today's statements.

17                      I'm not use to a microphone. It  
18      quite surprised me.

1       19               The three documents that New York  
20      State Department of Environmental Conservation has  
21      presented for public comment are very important and  
22      they represent separate steps in the process,  
23      required by CERCLA. At the outset, we are deeply  
24      concerned that the draft consent decree incorporates,

1           Onondaga Lake Consent Decree - 10-19-2006  
2     by reference, the as yet unfinalized E.S.D. This is  
3     yet another reminder that public comment, from  
4     D.E.C.'s perspective is a meaningless waiting period  
5     that must pass before they can move forward with the  
6     plan.

7                         As the Nation has repeated on  
8     countless occasions, meaningful comment and  
9     meaningful consultation requires an exchange of ideas  
10    before a final decision is made. We deeply regret  
11    the D.E.C.'s continued efforts to steamroll this  
12    project forward.

13                        The Onondaga Nation has repeatedly **2**  
14    expressed its concern about the plan contained in the  
15    record of decision for the lake bottom. This  
16    proposed consent decree memorializes this flawed  
17    record of decision. The plan itself, and thereby the  
18    consent decree, is inadequate. It is an  
19    inappropriate and serious dereliction of duty for the  
20    D.E.C. to sanction a plan that will leave dangerous,  
21    carcinogenic, and highly mobile chemicals and heavy  
22    metals in Onondaga Lake. The levels of these  
23    dangerous and carcinogenic toxins which will be left  
24    if this consent decree is entered, will exceed the

1 Onondaga Lake Consent Decree - 10-19-2006  
2 agency's own safe levels, and the lake will remain a  
3 superfund site even after the cleanup.

3

4 The state has often pointed to the  
5 price tag of this cleanup plan, as a measure of its  
6 success. The state says that this is the most money  
7 spent on a toxic site - that's the state's website -  
8 in the state's history; but what are the people in  
9 this region getting for all the monies that will be  
10 spent by Honeywell International?

11 We are getting a plan that dumps  
12 millions of cubic yards of mercury waste sediment in  
13 our children's laps. We are getting a plan that  
14 leaves future generations to compensate for D.E.C.  
15 and Honeywell short comings. And with this plan,  
16 D.E.C. is actively deciding that it is acceptable  
17 that our children will never know a clean, truly  
18 clean, safe, or healthy Onondaga Lake.

4

19 Even a preliminary review of the  
20 estimation of significant difference reveals that the  
21 proposed changes fundamentally alter the selective  
22 remedy in the ROD, in regards to both the remedy's  
23 performance and scope. It significantly weakens the  
24 already unacceptable ROD. Regrettably, the D.E.C.'s

1           Onondaga Lake Consent Decree - 10-19-2006  
2       supporting documentation explaining the change barely  
3       provides enough information to understand the nature  
4       of the revision, and obscures the reasons for the  
5       change, including why the issues underlying the  
6       problem were not addressed earlier. To quote Arlo  
7       Guthrie in not dissimilar circumstances, "if you  
8       didn't know about that one, what else don't you  
9       know?"

10                   The Nation asserts that the  
11       E.S.D.'s effect will be to change the plan, from  
12       dredging nearly all the dangerous and mobile  
13       carcinogens from the affected portion of the lake  
14       over the short-term, to a long-term and evidently far  
15       more dubious removal system. This proposal is a  
16       fundamental change, which justifies reopening the  
17       record of decision. It calls for the installation of  
18       a metal barrier wall in the lake, and filling in of  
19       yet another significant portion of this sacred water.  
20       We regret the D.E.C. and the E.P.A.'s continued  
21       unwillingness to have meaningful, respectful dialogue  
22       with the Onondaga Nation and the citizens of Central  
23       New York about this lake cover-up plan.

24                   Thank you very much for your time.

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MR. LYNCH: The next speaker is  
Susan Hammond.

MS. HAMMOND: And I guess I'm the  
second one. My first -- first of all, I would like  
to -- I would like to -- I would like to compliment  
the people of the Department who -- who took all the  
time and trouble to -- to look through all the  
background information: The background of the  
contamination of the lake; the history of the lake;  
what is used for; how it got contaminated; and -- and  
all the analysis of the toxins in the lake, and their  
terrible health effects. It was really a wonderful  
document.

And the other wonderful thing was  
that it looked at seven alternatives for cleaning up  
the lake. One through -- one through seven. Perhaps  
it looked at more, but there were seven that were  
initially listed.

The first one was to do nothing,  
and they decided that they were going to -- that was  
not really an alternative.

Then they listed the next six, all  
of which seemed to involve increasing -- increasing



1           Onondaga Lake Consent Decree - 10-19-2006  
2   amounts of dredging of the contaminated sediments out  
3   of the lake. And through the entire document -- and  
4   I just -- let me just sort of summarize a comment  
5   that I made before, and I think it is still relevant.  
6   Because as far as I can determine, just quickly  
7   looking through these, the alternative that you're  
8   going through -- or decided upon, is the same  
9   alternative, primarily, that was proposed when these  
10   original -- when these original documents -- when the  
11   proposal was -- was put forward over a year ago, and  
12   there was an original public comment period.

13                   Basically, as I said, it's sort of  
14   a summary, because I -- I can -- I can take your own  
15   document, page for page, and quote from it, but  
16   basically what it says is -- the document after  
17   explaining -- explaining the toxicity of the lake  
18   contaminants, and need for remediation, the  
19   preference for treatment -- treatment, which capping  
20   will not accomplish, the extent and duration of  
21   Honeywell's contribution to the contaminations, and  
22   why, for almost all of the relevant criteria of  
23   environmental and human health criteria, reliability,  
24   permanence and effectiveness, all of these were your

1           Onondaga Lake Consent Decree - 10-19-2006  
2       criteria, not ours - they're your criteria in your  
3       document - alternative seven, is clearly preferable  
4       to alternative four, which is what you picked.

5                       The document then summarily  
6       declares that the Department prefers number four, and  
7       spends about only a page explaining why. The  
8       explanation basically says that alternative four is  
9       better or as good as two, three, five and six, for  
10      various reasons. But it never rescinds, it never  
11      rescinds its previous conclusions regarding the  
12      superiority of number seven. And only mentions  
13      number seven with regard to cost. And even then it  
14      says, that "while alternatives six and seven would  
15      provide greater long-term effectiveness than  
16      alternative four, because the volumes of material  
17      removed might have to be moved off-site, or require  
18      additional S.C.A. containment areas, the incremental  
19      cost incurred, would not be cost-effective."

20                      So, basically after all these years  
21      of studies, the D.E.C. is now telling us that even  
22      though it knows, the D.E.C. knows, that the remedy it  
23      prefers, what it has recommended, is not as good, or  
24      as permanent, or as reliable, or as effective as

1           Onondaga Lake Consent Decree - 10-19-2006  
2     another remedy it knows about and has studied and  
3     puts out in its own document, it will nevertheless,  
4     pick the lesser remedy, because the much better one  
5     would cost the perpetrator of the mess more money to  
6     clean up.

7                         And frankly, I will say the same  
8     thing now, as I said then, gentlemen: You are the  
9     D.E.C., the Department of Environmental Conservation.  
10    There are plenty of people -- there are plenty of  
11    people who will speak for Honeywell, speak nicely of  
12    Honeywell, and what wonderful citizens they've been,  
13    and how we don't want to incur them too much money;  
14    there will be plenty of politicians, there will be  
15    plenty of lobbyists, there will be plenty of PACs,  
16    all of those will speak for the economy,  
17    quote/unquote, and businesses.

18                        You are environmental conservation.  
19    You are the only people that we have to speak for the  
20    environment. And you have spoken in your document.  
21    You have told us that you know the best way to clean  
22    up this lake, and you detail all the reasons why,  
23    with your own criteria. There is really no  
24    scientific difference between scientists out there,

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2 pretty much, and you, yourselves. Everyone agrees  
3 what is necessary to clean up this lake.

4 But instead - as is got to be only  
5 a political decision - instead you have picked a much  
6 lesser remedy on the basis of cost. And this is,  
7 frankly, what I object to. And -- and I -- it  
8 infuriated me when I read it, because it was a  
9 wonderful document, pointing out all of these things,  
10 until it got to the very end.

11 Basically it said, "nevertheless,  
12 we're going to pick this lesser remedy, because it  
13 wouldn't be cost effective."

14 Cost effective to whom? To  
15 Honeywell.

16 The environment, it's not going to  
17 clean it up for -- for the citizens. It's not going  
18 to do as good a job, and you know it. And you have  
19 said so.

20 And this is why I basically want to  
21 protest it. There's probably nothing we can do about  
22 it, because as someone else said, this comment  
23 period, you know, is sort of pro forma, by  
24 administrative law, you have go through it. But we

1           Onondaga Lake Consent Decree - 10-19-2006  
2       already know -- and it's -- it's just going to be  
3       sad. I just, I really wish the people of this  
4       community knew. And all of the people that want this  
5       lake cleaned up, okay, I applaud you, and -- and I  
6       understand why you want it to get going. But the  
7       fact of the matter is, even the Department knows that  
8       this is not going to do as good a job as the plan it  
9       evaluated. And the plan that it said, it said the  
10      technology, equipment, subcontractors, personnel and  
11      facilities required to successfully complete all  
12      alternatives are available in the environmental  
13      marketplace.

14                   A better cleanup is feasible,  
15      ladies and gentlemen. The Department knows it. And  
16      all the scientists know it. And so, basically, this  
17      is my objection here today. Don't give us -- I'm  
18      trying to think of something that's -- don't sell us  
19      out. Don't sell us out. You're supposed to speak  
20      for the environment. You have spoken, until you made  
21      your decision. It's the wrong decision, and you know  
22      it. And -- and -- and many of us out here also know  
23      it.

24                   MR. LYNCH: Next speaker is Sherri

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2 Mossotti.

**O-7**

3 MS. MOSSOTTI: So, as I'm sitting  
4 here, all I'm thinking is, "please don't call me  
5 after those two ladies."

6 Sherri Mossotti, last name is  
7 M-O-S-S-T-I. I've been a resident of Onondaga  
8 County for over forty years. And twenty of those  
9 years of my professional life, I have driven by  
10 Onondaga Lake, one of the most polluted lakes in the  
11 country. And it's sad, and it's disappointing, and  
12 it's disheartening.

13 I've traveled all over the world.  
14 I've had an opportunity to see many lakes. Many  
15 different water locales, and how they -- they just  
16 blossom. All around, the community continues to  
17 blossom.

18 In my professional life, I run a  
19 leadership training organization. It's a community  
20 leadership training organization. And each year, we  
21 have about a hundred applicants, and one of the  
22 questions on the application is what is one of the  
23 things, one of the issues in our community, that  
24 needs to be addressed, to turn this community around?



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2 And seventy percent of the responses are, "clean up  
3 Onondaga Lake."

4 Well, I've been very fortunate over  
5 the last seven years. Going through this process,  
6 we've had Ken Lynch in, we've had Honeywell in, we've  
7 had Onondaga County Executive Nick Piro, Congressman  
8 Walsh, we've had a O'Brien and Gere folks in. We've  
9 had people from SUNY E.S.F.

10 And the question continues to come  
11 up is, "looking at the history of the lake, how can  
12 we turn it around? And how can we make this the lake  
13 that it should be, representing our community?" And  
14 repeatedly, I'm told, by these experts, because I'm  
15 not an expert on environmental conservation, but am  
16 repeatedly told this is a good solution. This is a  
17 good plan.

18 And we recently did a focus group  
19 with our leadership class of fifty individuals, you  
20 may or may not have seen it on T.V. out at the 174th.  
21 And again, several individuals came back with, "let's  
22 go. Let's get it done." Our concern is that if we  
23 continue to hold on and wait, there are always going  
24 to be better ways. There's new technology. There's

1           Onondaga Lake Consent Decree - 10-19-2006  
2   new opportunities, but right now, we have something  
3   in front of us that can really help to move this  
4   community forward. It's been too long, folks. I've  
5   lived here all my life. It's a disappointment. It's  
6   a disappointment to my children, and someday my  
7   grandchildren.

8                           And I do believe that the people  
9   that are involved, that are from this area, and  
10  there's many of them, do believe this is a good  
11  process, and it's time to move forward.

12                          If you've ever had a chance to  
13  understand the rich history of our lake - the iron  
14  pier, the trolley, the roller coaster, the hotels,  
15  some of the great things that the lake once was -  
16  then we talk about mistakes leaders of the past have  
17  made, unfortunately, Onondaga Lake, at least the  
18  polluting of it, is one of those. It's time we take  
19  action and move forward. We owe this to our  
20  community. We owe it to our children. It's been too  
21  long. We can't afford not to move over -- move  
22  forward.

23                          I look forward to working with  
24  Honeywell, with the Onondaga Lake Partnership, with

1           Onondaga Lake Consent Decree - 10-19-2006  
2     the D.E.C., with Onondaga County Executives Office  
3     and with the City of Syracuse in moving this plan  
4     forward, and we support it whole-heartedly. It's  
5     time folks. Let's make a difference in our  
6     community. Let's leave a legacy for our children,  
7     that they can enjoy our community. And hopefully,  
8     the lake will be again what it once was.

9                     Thank you.

10                    MR. LYNCH: Bryan Campbell.

11                    MR. CAMPBELL: Thank you. Bryan  
12     Campbell, B-R-Y-A-N, Campbell, like the soup.

13                    I'm here to represent the Central  
14     New York Wild Fowlers. Central New York Wild Fowlers  
15     is an association that's been around for about fifty  
16     years, mainly water fowlers, representing all Central  
17     New York, therefore representing all outdoor  
18     sportsmen and sportswomen, who really enjoy using  
19     Onondaga Lake as is, and who would really, really  
20     like to see the continuation of the cleanup -- the  
21     beginning of the cleanup and the continuation of  
22     using that lake, not just for hunting and fishing,  
23     but for yachting, people sailboating, the dreaded jet  
24     skis, and whatever else might come up.

**O-8****1**

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2 The water fowlers themselves have  
3 already began the assistance of the lake, by  
4 committing to at least ten wood duck nesting boxes to  
5 be put around the -- the -- the walkway. We're  
6 hoping -- and we will involve children in this, by  
7 the way, many different student organizations. But  
8 we're hoping, with the addition of these nesting  
9 boxes, anyone that's ever seen a wood duck, realizes  
10 how beautiful they are. And it'll just by the --  
11 the -- the enhancement of the waterfowl, bring back  
12 come beauty to this lake.

2

13 We're also very committed to  
14 helping with the habitat restoration, as -- as we do  
15 at Central New York Water Fowlers do. We do provide  
16 funding for habitat throughout New York State, and we  
17 are looking forward to helping out, with the  
18 assistance of Honeywell and the D.E.C., to really  
19 improve this lake, and -- and keep it on the -- the  
20 forefront that it -- we know what it can be done.

21 And that being said, on a personal  
22 note, I'm -- I'll be having my first child in  
23 January, and I look forward to a lake that's going --  
24 that I'm going to be able to say, "you know what,

1           Onondaga Lake Consent Decree - 10-19-2006  
2   this lake was once one of the nastiest lakes in -- in  
3   this country," and make sure that my child, hopefully  
4   will come attuned to what a beautiful lake this can  
5   be, and what a beautiful community that Syracuse will  
6   become. And I thank D.E.C., and would hope, along  
7   with Honeywell, we can get this moving forward, to  
8   the beautiful lake that we know it will become.

9                   MR. LYNCH: Erin Cunningham.

**O-9**

10                   MS. CUNNINGHAM: Hello, my name is  
11   Erin, E-R-I-N, Cunningham, C-U-N-N-I-N-G-H-A-M. I'm  
12   a civil engineering student at Syracuse University,  
13   and through my related coursework, I have studied the  
14   many environmental problems confronting the lake and  
15   the surrounding communities. I'm also a four-year  
16   member of University Women's Rowing Team. From  
17   someone who is on the lake every morning, before  
18   sunrise - you're jealous, I know - watching the  
19   sunrise on the lake is one of the most beautiful  
20   sights, I feel so blessed that I can enjoy that every  
21   morning. And while it is a sight to behold, Onondaga  
22   Lake remains one of the most polluted lakes in the  
23   country. I sound like a broken record when I say  
24   that, but a fact's a fact. I believe, however, the

**1**

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2 D.E.C.'s plan to clean up the lake is our best  
3 option. I strongly support D.E.C. and Honeywell's  
4 efforts, and hope to, one day, twenty years from now,  
5 bring my children to a clean and revitalized Onondaga  
6 Lake.

7 Thank you.

8 MR. LYNCH: John Furlong?

O-10

9 MS. FURLONG: Hi, I'm John  
10 Furlong's mother, I had to send him home, because he  
11 had to do his homework.

12 I'm a member of the member of the  
13 F.M. Crew and Manlius Crew Team, and my son John is  
14 also a member of the Onondaga Chargers. I am also an  
15 implant from Boston, I moved here thirteen years ago,  
16 and when I moved here thirteen years ago, one of the  
17 first places I went to was Onondaga Lake. I thought,  
18 "wow, it reminds me a lot of home. But guess what,  
19 you can't go swimming."

20 My son is a cockswain. A  
21 cockswain's job on the lake is to row the boat. My  
22 biggest fear, every time they went, was that he is  
23 going to get thrown into that water. Well, for  
24 twelve years, I've heard how they're going to clean



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2 up the lake. Well, do you know what? I've learned  
3 Syracusers don't like change. But this is change, 1  
4 and it's a start. And it's very welcomed, because  
5 believe me, I would love to have my son thrown in the  
6 water, and not have to worry about getting a tetanus  
7 shot.

8 Thank you.

9 MR. LYNCH: Tell John we missed  
10 him, we should have -- if you would have let me know,  
11 I would have gotten him on to get his homework done  
12 sooner.

13 Russ Andrews. O-11

14 MR. ANDREWS: I just want to say 1  
15 that -- oh, R-U-S-S A-N-D-R-E-W-S -- there are so  
16 many cities in America that would just die for this  
17 body of water in great downtown, and we've just  
18 talked about it, and talked about it, and talked  
19 about it, and I think it's time we do something. I  
20 think it's, in a way, very nice of Honeywell to do  
21 it. There are an awful lot of companies that  
22 polluted this lake, but the law is such that  
23 Honeywell gets to hold the bag for the whole lake.  
24 And it may not be the perfect solution, but I think

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2 the perfect solution is to dredge the whole lake, it  
3 would cost two and a half billion dollars, and we'd  
4 still have to cap it.

5 So, I'm just happy that we're  
6 finally doing something. Thank you.

**O-12**

7 MR. LYNCH: Terry Brown.

8 MR. BROWN: Hi, my name is Terry  
9 Brown, T-E-R-R-Y B-R-O-W-N, I'm the C.E.O. of O'Brien  
10 and Gere, and some would think I have a conflict, but  
11 I'm speaking here more as a member of this community  
12 for over fifty years, except for the time I was in  
13 the Marine Corps and went off to college, so it's  
14 been a lot of years. I worked at a METRO plant in  
15 1975, when I first joined O'Brien and Gere, so I know  
16 the lake pretty well, and I know this community  
17 pretty well.

**1**

18 A couple comments. In the work  
19 that we do, throughout the country, as O'Brien and  
20 Gere, the one thing that I want people to know, this  
21 is unprecedented. And certainly D.E.C. and Honeywell  
22 should be congratulated on this monumental agreement.  
23 And it's not just the four hundred and fifty million  
24 dollars they've spent on the lake, it's the untold

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2       amount of money in the upland sites that are  
3       committed to.

4                       We have worked, as a firm, and I  
5       have worked personally, on sites in the country,  
6       where I have been there twenty-five years, and not a  
7       lot has been done. And this is an example of what  
8       can be done when people work together.

9                       And -- and we can debate the  
10      scientific issues, and some very good points were  
11      brought out today, but I -- I want to mention, in  
12      Central New York, we're blessed with hundreds of  
13      scientists and environmental engineers. We're  
14      blessed with -- who work through out the world,  
15      throughout the country, on these types of sites.  
16      We're blessed with environmental school in E.S.F. We  
17      have some of the best scientists in the world. Some  
18      of the best -- one of the best universities for  
19      environmental science in the world. And we're also  
20      blessed in New York State - some would say it's a  
21      blessing, on -- on our side - with some of the best  
22      environmental scientists, who worked for D.E.C., and  
23      really do have citizens of this state's concerns in  
24      mind. So, I just want to mention, that -- and speak,

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2 we have an opportunity here, in this community, and  
2 3 the one thing that I want everybody to know, we  
4 should be very appreciative, because a lot of  
5 communities don't have this opportunity. We've got  
6 to act on it now, and get it done as quickly as  
7 possible for our children and our grandchildren.  
8 Thank you.

O-13

9 MR. LYNCH: Lindsay Speer.

10 MS. SPEER: It's L-I-N-D-S-A-Y

1 11 S-P-E-E-R. I am a third generation Syracusean, my  
12 grandmother moved here when she was a young girl, and  
13 I would like to see Onondaga Lake cleaned up,  
14 absolutely. You know, it's been a blight on our  
15 community for a long time, and it's a dream to have  
16 it actually be an asset to our community.

17 That being said, I'm here to  
18 support the statements made by Thane Joyal, and some  
19 of the others in the audience. They made them far  
2 20 more eloquently, and in more detail than I can. But  
21 I am concerned that the current plan does not look  
22 far enough into the future, there is a time when the  
23 engineered constructs will fail. And again, I don't  
24 think you can find an engineer that would tell you

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2       that there's no possibility of any of those things  
3       failing. And in that time, we will still have those  
4       toxins in our lake. We'll still have that mercury in  
5       our lake. It will come back and haunt us, you know,  
6       when my children live here, when my grandchildren  
7       live here.

8                       I feel very much part of this  
9       community. I've been here for a long time, and --  
10      since I was very young, and I think it's important  
11      that we do this right. I agree that we definitely  
12      need to get the act going. We need to get this  
13      happening. But I also don't want our haste to  
14      deprive us of what we could possibly have in the  
15      future.

16                    Onondaga Lake is sacred to our  
17      community, whether or not we're Onondaga family or if  
18      we're of European descent, it is important to us  
19      here. And I also hope that the public is guaranteed  
20      a role in commenting on the design phase that it does  
21      have good public input.

22                    Thank you.

23                    MR. LYNCH: Bob O'Leary.

24                    MR. O'LEARY: Good evening, ladies

3

O-14

1

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2     and gentleman. My name is Bob O'Leary, I live at 130  
3     Edgemere Lane in Fayetteville, and I literally just  
4     walked in about thirty seconds ago, my daughter had a  
5     sectional tennis match, so I'm really not familiar  
6     with what was said here. But I'm appearing on my on  
7     behalf with -- and I'd like to express my desire,  
8     and -- and thank people for the reference in cleaning  
9     up Onondaga Lake. But you know, my involvement with  
10    Onondaga Lake started about five years ago, when my  
11    family became involved in the sport of rowing. And I  
12    didn't understand the importance that that can have  
13    to our community, and I -- you know, five and a half  
14    years ago, I thought of rowing about as much as some  
15    other people have thought about maybe parachuting.  
16    But I'm privileged to serve as the -- the town judge  
17    in the town of Manlius, and I had noticed that the  
18    kids who tended to get in trouble, were the kids who  
19    were maybe didn't have a connection to their high  
20    school, for whatever particular reason.

21                   I remember one particular time  
22    there was a kid who got in trouble, and when I asked  
23    him if he had had any involvement with his school, he  
24    said, "no, I wasn't good enough to make the Lacrosse

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2 team."

3 So, this -- what attracts me to  
4 rowing, was the fact that it's the only sport or  
5 activity that I'm aware of, that a kid with  
6 absolutely no experience in it, as a freshman,  
7 sophomore, junior or senior can pick it up, and do  
8 well.

9 So, five and a half years ago I  
10 went and spoke to the superintendent of schools in  
11 Fayetteville-Manlius, Phil Martin (phonetic  
12 spelling), who was a great superintendent, he asked  
13 me the question, was there enough interest to fill a  
14 boat. Well, after our third year we had a hundred  
15 and five kids, and we put sixteen kids in college,  
16 but that was all only possible because of a group of  
17 dedicated people, the Syracuse Chargers, who have  
18 gone on for I think twenty years, and were founded by  
19 Coach Bill Sanford, who is a former State  
20 Assemblyman, and the Chargers' facility, as you may  
21 be aware, is within Onondaga Park, and they have four  
22 hundred kids in their program, and for whatever  
23 unfortunate reason, the sport of rowing, I think, has  
24 an unfair label of being a white collar sport, which



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2 I haven't been around, I think there's nothing more  
3 blue collar than the sport of rowing.

4 And the Chargers, you know, it's a  
5 not-for-profit, we have outgrown our boathouse,  
6 there's nineteen boats that we can't even fit in  
7 there, and they're depreciating. And in my five  
8 years, I've been able to notice that Onondaga Lake  
9 has measurably, at least to my untrained eye, gotten  
10 cleaner.

11 And I think that living on the  
12 other side of the county, I was unaware of exactly  
13 the importance of what Onondaga Lake can mean to the  
2 14 community. And it's our hope, that within the next  
15 three months, to make a presentation, we've been  
16 actively attempting to fundraise, and we'll be coming  
17 to the D.E.C. because of number of permits we have to  
18 get, and hopefully the D.E.C. will be able to assist  
19 us. We're not asking for -- for money, but we're  
20 asking for access on to the water here.

21 So, I'm kind of rambling, because  
22 as I said I just came in, I don't know what was said,  
23 but what I want you to know is that the Syracuse  
24 Chargers enjoy the lake. We have four hundred kids,

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2       plus we have an adult program that uses it, and I  
3       think that the lake is something that we should all  
4       support. And -- and I certainly appreciate anybody's  
5       assistance in allowing us to -- to grow and other  
6       segments of the community to be able to enjoy it.

7                       Thank you.

8                       MR. LYNCH: Casey

**O-15**

9       Cleary-Hammarstedt.

10                      MS. HAMMARSTEDT: I'll spell it.

11       C-A-S-E-Y C-L-E-A-R-Y, hyphen, H-A-M-M-A-R-S-T-E-D-T.

12       I'm an ordinary citizen with no scientific  
13       background. I kissed my ten year old goodnight, and  
14       said, "Mommy, has to go tonight, I have to be there  
15       talking with some people about whether your  
16       grandchildren are going to be able to enjoy the  
17       lake." Guess what perspective I've coming from?

18                      It's been interesting to listen  
19       tonight, because I don't feel like I know as much as  
20       I maybe need to know to make a comment. But I  
21       listened to -- I've gone to some places where I've  
22       listened to the Onondagas talk about the lake, and  
23       I've listened to mostly non-Onondagas tonight, and  
24       there was a lot of "my," "my," "my" discussion

1           Onondaga Lake Consent Decree - 10-19-2006  
2           tonight. "What we want from the lake." "What we  
3           want for our children." A lot less "our" -- a lot  
4           less "our" children.

5                       And our legitimacy, when -- when we  
6           stood to speak seemed to come from whether we were  
7           one generation, fifteen years, and thirty years.  
8           I've been thirty years here, and I've learned to love  
9           this land. I don't know that -- I don't know that --  
10          what it would be like to have loved this land, and  
11          have my genes go back eight thousand years, but I  
12          think my sense of what my children and my ancestors  
13          would be like, would be a lot different. And that if  
14          my commitment was to the seventh generation, that I  
15          wouldn't only be thinking about my ten year old who I  
16          kissed good night, or my grandchild, or her  
17          grandchild. But they think about their great, great  
18          great, great grandchild, and in the minority tonight,  
19          has been this perspective to think about time.

20                      And I'll go back to what this other  
21          woman said a few minutes ago. We know that this  
22          solution is no better than what we did in terms of  
23          dumping the stuff in there in the first place. We  
24          are the people, the Europeans who came here, and

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2 decided to dump this stuff in this lake.

3 Those who had lived here before us,  
4 for eight thousand years, did not dump their waste  
5 into this water. Their economic waste, or their  
6 bodily waste. We have done that. We allowed that to  
7 be done, and collectively we have allowed that to be  
8 done. Collectively, we owe it to future generations  
9 to live differently.

10 To cap what cannot be capped, does **1**  
11 not make sense to me as a mother. I did not hear  
12 anyone say that we would be able to eat fish safely.  
13 To let -- to think that nine years will solve a  
14 problem of ecological consequence of this magnitude,  
15 and for us to be able to celebrate it -- I -- I  
16 agree, we have to -- there should be action happening  
17 all the time, but the capping idea is just  
18 exacerbating it. It's hiding it. It's leaving it.

19 Listen to the language. What do we **2**  
20 get for four hundred and fifty-one dollars (sic)?  
21 What is the outcome? It is not a cleaned up lake.  
22 It is a lake that still has tons and tons and tons  
23 and tons of toxic material in it.

24 Who; what generation of our future,

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2 the people who live here, will ultimately stand up,  
3 and clean that up.

4 We're saying we don't want to be  
5 the ones, because we have other plans for the lake,  
6 in the near future, and we enjoy a lot right now,  
7 because we like to take our yachts on it, and we like  
8 to row around it, and we like to run around it, and  
9 we want to be able to take our kids around it as soon  
10 as possible.

3

11 The Onondagas have put no time  
12 table on the solution that they want, which is a  
13 clean lake from which the pregnant woman could eat  
14 the fish out of.

15 How many of us are going to be  
16 willing? How many pregnant women would -- would eat  
17 a fish out of Onondaga Lake in the foreseeable  
18 future?

19 Would the D.E.C. and the Department  
20 of Health ever say, in our lifetimes, that a fish  
21 would be safe to eat?

22 Honeywell, in this beautiful little  
23 hand-out tonight, says -- listen to the language,  
24 folks, what are we getting for four hundred and

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2 fifty-one dollars? I'm not a business person. Don't  
3 we want to know what were getting for our four  
4 hundred and fifty-one dollars -- four hundred and  
5 fifty-one million dollars? "The Onondaga Lake **4**  
6 cleanup plan is a safe and successful - as in if it's  
7 proven - successful approach to create conditions, in  
8 which additional natural recovery can occur over  
9 time."

10 What kind of natural recovery are  
11 they speaking of that has ever been known for  
12 substances not known by nature, created by man, that  
13 are not going to go away? Nature does not have a  
14 remedy for this.

15 We have to do better by nature, we **5**  
16 have to do better by the land that we have taken, the  
17 land that we are now are entrusted to take care of  
18 for future generations, not just the generations  
19 we'll see, but the generations we won't see, so that  
20 there will be water. And maybe when we search for an  
21 identify in Syracuse, it's not so much about the fact  
22 that we don't -- we do want to act, and we should  
23 act, and we keep -- do stuff. Don't just keep  
24 studying it, but let's find -- let's have an

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2       endpoint. What is that endpoint? It's not clear  
3       enough.

4                       Honeywell, you've got to stay in it  
5       until it is clear. You've got the accumulated  
6       capital from all of the profits made by the  
7       corporations that you purchased. Stay in it with us.  
8       Be a good corporate citizen. Put us on the map for  
9       being a community that helps say that water is a  
10      critically important resource. The watershed is  
11      important to the community. The center of the  
12      community. It's named after this community. It was  
13      sacred to the Onondagas, and it will be sacred to  
14      this community, in this period of time, Europeans,  
15      wherever you came from. And let's live with the  
16      Onondagas and do simply what they're asking. Heal  
17      the lake, not cap it.

18                   MR. LYNCH: Okay. At this point, I  
19      have called all the names that have signed up to  
20      speak. Is there anyone else out there wishing to  
21      make a formal public comment for the record?

22                   If no one else wishes to speak, we  
23      will now proceed into the final portion of our  
24      meeting, and that's to field some questions from you.



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2                       Again, I'll lay out some ground  
3 rules. This is not structured as a debate on the  
4 cleanup plan itself, but it is structured to field  
5 your questions you may have about the plan, and  
6 primarily about the consent decree that was recently  
7 signed by Honeywell and the state.

8                       We will do our best job to respond  
9 to your questions here in person. There are times  
10 where they are very technical and serious and  
11 longwinded answers to some of your questions. And in  
12 the interest of everyone here, we may ask that we --  
13 we follow up with you after this meeting, to discuss  
14 further with you. And we are certainly willing to  
15 sit down, and go through some of the detailed  
16 analysis that was undertaken in coming up with this  
17 proposed plan, and the details of the consent decree  
18 itself.

19                      So, that being said, I'm going to  
20 attempt to initially field your questions. I have a  
21 large staff of experts sitting out there to assist  
22 me, if that need be. And if we need to, we will take  
23 the discussion further off-line for questions, after  
24 this meeting.

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2 Sir.

3 FROM THE FLOOR: The first speaker,  
4 Dr. Freedman raised issues about possibly creating  
5 some weed-free areas in conjunction with some safety  
6 considerations; is that something that could be  
7 considered as part of the project?

8 MR. LYNCH: It's something that can  
9 be considered by our Department working with other  
10 interests around the lake. It, likely, will not be  
11 considered directly in relation to this plan. Weed  
12 control is -- is not really part of the CERCLA or  
13 superfund process. It certainly isn't an obligation  
14 of responsible parties that cause industrial  
15 pollution to the lake.

16 But weed control is something that  
17 we -- we're dealing with -- on all our lakes, whether  
18 they're clean or dirty, and it's certainly something  
19 that we try to work with the community on a way to  
20 control weeds, in a manner that's protective of -- of  
21 the environment.

22 There are concerns, with doing too  
23 much weed control. Certainly we don't want to impact  
24 the -- the habitat for our fish and other species in

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2 the lake. But certainly, weed control is something  
3 that we discuss all the time, and work with  
4 communities, planning groups, yacht clubs, and  
5 others, to try to address your concerns.

6 Other questions?

7 Yes, ma'am.

8 FROM THE FLOOR: Just to follow up  
9 on --.

10 THE REPORTER: We might need the  
11 microphone.

12 FROM THE FLOOR: When it -- what is  
13 the end point of this?

14 What -- what I saw in -- in the  
15 plan is a bunch of F.E.C.s and Q.A.B.s and a whole  
16 bunch of things that -- that scientifically you  
17 wanted to meet, and that was what the proposal is  
18 suppose to meet. But I guess what I really want to  
19 know is, when we get all done, what is the end point?  
20 Can -- will we be able to swim in this lake? Will we  
21 be able to eat the fish out of this lake? Will we be  
22 able to drink the water? Will this lake be as good  
23 as it was before all of these pollutants were dumped  
24 in it when you're done?

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2 MR. LYNCH: Okay. There are a  
3 number of goals established for the cleanup of  
4 Onondaga Lake. There are goals established in the  
5 agreement with Onondaga County, to address the  
6 wastewater treatment plants, and there's goals  
7 established in the cleanup plan, or the record of  
8 decision, to address the industrial pollution. And  
9 very generally speaking, those goals are to make this  
10 lake a swimable and fishable lake.

11 Is there an absolute date where we  
12 can say that that's going to be achieved? No there  
13 isn't. But there are goals established, and the  
14 plans themselves, are -- are designed, and planned,  
15 and have scientific information behind them, that we  
16 believe, and we're very confident that we can reach  
17 those goals.

18 In relation to edibility of the  
19 fish, it's a very difficult scientific determination,  
20 to say if you cut off all the mercury and the other  
21 contaminants to the lake, and to the fish, when will  
22 they be fully edible?

23 That is very difficult to say.  
24 There are fish that are not edible in some of our,

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2       unfortunately, in some of our other water bodies,  
3       that have not been impacted by industrial pollution  
4       to the extent that Onondaga Lake has.

5                       But our plan is designed to  
6       eliminate the adverse ecological effects on the fish  
7       population in Onondaga Lake. And we're confident  
8       that the dredging and capping plan, and other  
9       measures taken in this plan, will cut off the impacts  
10      to the fish of the contaminants.

11                      How long it will take for fish  
12      fully to recover; and whether or not there won't be  
13      other effects out there that might impact the  
14      edibility of the fish; atmospheric deposition, or  
15      some other impact, some other contaminants that some  
16      how reach Onondaga Lake? Those are hard to predict,  
17      and we can't say by 2016, we're definitely going to  
18      be eating the fish in the lake.

19                      But the lake is improving. Some of  
20      the fish, with advisory, are edible at this point.  
21      Certainly we need to do better, and certainly we need  
22      to cut of the contaminants that are impacting those  
23      fish. And that's what this plan is designed to do.

24                      Yes, sir.

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2 FROM THE FLOOR: It -- it seems to  
3 me, as if the goals that you stated are not really  
4 goals, but they're wishes. Goals, by definition have  
5 an -- have an end time; a date by which they will be  
6 reached. And you're telling us that you don't know  
7 that. So, you're wishing that these things will  
8 happen, but you can't tell us that they will, or when  
9 they will happen.

10 MR. LYNCH: I wish we could give  
11 you a hundred percent guarantee that each and every  
12 goal will be met by a certain deadline, but  
13 unfortunately, due to the complexity of this lake  
14 cleanup, due to the degree of contaminants that have  
15 impacted this lake, and -- and due to the number of  
16 years of design and construction activity, and other  
17 factors beyond our control that may occur, we cannot  
18 give you that guarantee. What we can give you, is a  
19 sound scientific background for coming up with this  
20 plan, that will, with very good confidence, believe  
21 that we will reach those goals.

22 And it may take some time for the  
23 fish to recover, because we cannot go in and -- and  
24 physically change what has impacted the fish today.

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2 What we can do, is cut off the contaminants from  
3 further impacting the fish, so that they can fully  
4 recover, absent other issues.

5 So, we're very confident that we  
6 have the scientific background to help us achieve  
7 those goals, and we're very confident in this plan.  
8 And we wish we could tell you, by a certain date it  
9 will be fully completed, but it is very complex, and  
10 because of that, we have an extensive monitoring  
11 plan, to make sure it's working.

12 If it's not effective we can  
13 require the responsible parties to do more work. We  
14 ourselves, as the state agency responsible for the  
15 work, can do further work, and can ask our federal  
16 friends in the E.P.A. To assist us in doing that.

17 So, it's being watched closely, and  
18 it's going to be monitored closely to make sure that  
19 it is effective, and we can someday eat those fish.

20 Yes, ma'am.

21 MS. HAMMARSTEDT: To -- to just  
22 stay on the question of goals.

23 MR. LYNCH: Uh-huh.

24 MS. HAMMARSTEDT: -- I'd like to



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2 follow up with what he said --

3 THE REPORTER: Sorry. For the  
4 record we might need the microphone.

5 MS. HAMMARSTEDT: Okay.

6 THE REPORTER: I appreciate it.

7 MS. HAMMARSTEDT: I'll do more  
8 reading on the goals, but if we do stay on what you  
9 said, swimable and fishable, what I sometimes use as  
10 a rule of thumb with goals, is that they should be  
11 smart, specific, measurable, achievable, realistic,  
12 and timebound. Now, I get your answer.

13 On the other side, Honeywell, are  
14 they bound, are they off the hook after four hundred  
15 and fifty-one million and nine years? Or is it also  
16 open-ended, until it's swimable and the fish are  
17 edible, because it's so complex, that they have to be  
18 willing to spend as much as need to be spent, until  
19 it's swimable and fishable, and the fish are edible.

20 Are they bound, or does this decree  
21 let them off the hook?

22 MR. LYNCH: That -- that's an  
23 excellent question, and -- and probably this question  
24 will be debated from a legal and technical aspect,

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2       but generally speaking, the responsible parties are  
3       bound to achieve those goals. The consent decree,  
4       the degree -- decree, itself, obligates Honeywell to  
5       implement this plan, and to make sure that that plan  
6       works. Okay.

7                       MS. HAMMARSTEDT: So, Honeywell is  
8       very clear on how they're going to measure swimable,  
9       fishable, edible, all of that?

10                      MR. LYNCH: Honeywell is not the  
11       one measuring those. It will bet the state D.E.C.  
12       and the federal E.P.A.

13                      MS. HAMMARSTEDT: Oh. Okay.

14                      MR. LYNCH: Any other questions?

15                      Yes, sir, in the back.

16                      FROM THE FLOOR: Have you addressed  
17       the Oil City pollution, and whether that will be  
18       included in the four hundred and fifty-one million  
19       dollars?

20                      MR. LYNCH: The proposed plan  
21       addresses all the hazardous waste that has impacted  
22       the lake, and if there are petroleum constituents in  
23       the lake, or that have been identified in the lake,  
24       part of the cleanup plan is to address those

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2 constituents.

3 There is a separate cleanup of Oil  
4 City itself. There is debate whether the  
5 contamination that has impacted the properties in Oil  
6 City have actually reached the lake, or whether it  
7 has been other sources that have impacted the lake.  
8 But the plan that we presented addresses all of the  
9 pollution in the lake, and will address that by  
10 either dredging, or capping, or other means. On top  
11 of actually addressing what has impacted the lake,  
12 there is a separate and distinct cleanup being done  
13 of the Oil City properties.

14 Any other questions?

15 Yes, sir.

16 FROM THE FLOOR: Well, I'm  
17 wondering what is meant by "swimable." Because some  
18 of the diagrams show a B and a C in the lake, a  
19 portion of the lake is rated as B, which I understood  
20 to be swimable if you're out there in the middle of  
21 the lake.

22 MR. LYNCH: Uh-huh.

23 FROM THE FLOOR: Does "swimable"  
24 have to do with the shoreline and -- and accessing

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2 the lake from a beach-type --?

3 MR. LYNCH: Yeah. The -- the  
4 swimable definition is actually governed by the  
5 clarity of the water body itself, and the bacteria  
6 level. So, the two primary purposes to say this is a  
7 safe water body for our standards to swim, will be  
8 the clarity and the bacteria levels in the water

9 FROM THE FLOOR: So, what does the  
10 B mean?

11 MR. LYNCH: The B is a  
12 classification for best use. And in real simple  
13 terms, it will be, we'll be able to swim in that  
14 water body, and we'll -- the fish will be able to  
15 propagate in the water body.

16 FROM THE FLOOR: We already have  
17 that, though, don't we, on the north end?

18 MR. LYNCH: It's classified, but  
19 we're not meeting that standard at this point.

20 FROM THE FLOOR: I see.

21 MR. JOYAL: Just -- for the second  
22 part of that question, could you just clarify, also,  
23 what is meant by "fishable," and whether that  
24 includes eating those fish? Could you just direct an

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2 answer to that?

3 MR. LYNCH: Yeah. The term as used  
4 in relation to the Clean Water Act, it's really  
5 not -- it's really in relation to our regulations, is  
6 that fishable means that the fish are able to survive  
7 and propagate in the lake.

8 We know that that's probably  
9 happening now, because we have some sixty species in  
10 the lake; they're surviving and they're propagating.  
11 But we also know that it is not environmentally  
12 sound, if you will, to have those fish still being  
13 impacted by mercury and other contaminants in --  
14 contaminants in the lake. So, when -- in -- in real  
15 general terms, when we use fishable, I think we're  
16 generally talking about fish being able to propagate,  
17 and survive in the lake, and also not be impacted by  
18 the sediments that are in the lake.

19 Any other questions?

20 MS. HAMMOND: I would really like  
21 to know why -- I -- I really would like to know  
22 why -- as I said I read this -- why, after going  
23 through and -- and demonstrating, and saying over and  
24 over again that alternative seven, for example, would

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2     have met all of the goals -- almost all of the goals,  
3     better than any of the other alternatives, in terms  
4     of permanence, and you know, reliability and  
5     effectiveness, and durability and all the other  
6     criteria that you set up; why; why did you pick an  
7     alternative that you knew wasn't as good, and  
8     wouldn't do the job as well?

9           MR. LYNCH: The -- there are a  
10    number of criteria that we look at when selecting a  
11    remedy for any cleanup of a hazardous waste site.  
12    The primary one is, we need to know that it is  
13    protective of human health and the environment. And  
14    based on the scientific research, and the data that  
15    was collected, and the years and years of studying  
16    this lake, we truly believe that the  
17    four-hundred-and-fifty-one-million-dollar remedy will  
18    be protective of human health and the environment.

19           Is it possible that more money  
20    could be spent, and the remedy could issue perhaps a  
21    more certainty to achieving all those goals? Yes,  
22    that's certainly possible. But the criteria outlined  
23    in law, includes things like feasibility,  
24    cost-effectiveness, and whether or not doing more

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2       work will create more damage to the lake? So, those  
3       are all things that we considered, extensively,  
4       including a detailed human health risk assessment to  
5       determine, and make sure, that the proposed remedy,  
6       of four hundred and fifty-one million dollars is  
7       feasible.

8                       We have had arguments that you  
9       could spend a lot less money, and still protect the  
10      lake, and clean up the lake, we did not buy into  
11      those arguments; but we are confident that the  
12      proposed remedy, that both the D.E.C. and the E.P.A.  
13      approved, will achieve the goals of the remedy.

14                    Any other questions?

15                    As I previously stated, we will  
16      remain here for awhile, to take any other questions  
17      you may have. There are a lot of displays. There is  
18      a lot of information out there available.

19                    I did forget to mention that these  
20      are the various areas where you can pick up copies of  
21      all the documents related to Onondaga Lake. Our  
22      Website offers a direct link to all of our documents  
23      related to the lake.

24                    And to submit comments, you can do



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2       that via the Web at that Web address, or you can mail  
3       them directly to address given there. And just to  
4       remind you that the comment period runs through  
5       November 13th, 2006.

6                       I want to thank everyone for  
7       coming, not only for participating in this meeting,  
8       but expressing interest in Onondaga Lake and working  
9       with us, through this process. And we'll encourage  
10      you to continue your interest in the lake, and to  
11      continue to work with us toward the cleanup.

12                      Thanks again, for coming.

13                      (The hearing concluded at 8:50  
14      p.m.)

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2 I, Gerry Revai, do hereby certify that the  
3 foregoing was taken by me, in the cause, at the time  
4 and place, as stated in the caption hereto, at Page 1  
5 hereof; that the foregoing typewritten transcription,  
6 consisting of pages number 1 to 85, inclusive, is a  
7 true record prepared by me and completed by  
8 Associated Reporters Int'l., Inc. from materials  
9 provided by me.

10

11

\_\_\_\_\_  
Gerry Revai, Reporter

12

\_\_\_\_\_  
Date

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14 rgr/tgmf/pllm

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		<b>wait</b> 51:23 <b>waiting</b> 41:4 <b>walked</b> 62:4 <b>walkway</b> 54:5 <b>wall</b> 10:22 11:6,17,18,21 11:24 12:3,4,9 13:14,21 19:16,17 20:2,6,10,12 21:8,15 37:8 38:5 43:18 <b>Walsh</b> 51:8 <b>want</b> 3:7 4:6,6,8,10 6:9,21 16:9,10 26:2,16 27:10 28:12 30:23 47:13 48:20 49:4,6 57:14 58:20 59:11 59:24 60:3 61:13 64:23 66:2,3 68:4,9,12 69:3,22 72:23 73:18 85:6 <b>wanted</b> 6:24 27:22 73:17 <b>wasn't</b> 62:24 83:7 <b>waste</b> 17:7 24:23 42:12 67:4,5,6 79:21 83:11 <b>wastebed</b> 22:3,6,7,8,12 25:6,15

<b>wastebeds</b> 8:6 9:20 13:9,12 22:11,18,19,22 23:21 24:17,22 25:2,3,8,10,11 <b>wastes</b> 14:22 <b>wastewater</b> 4:16 11:8 23:13 74:6 <b>watched</b> 77:17 <b>watching</b> 55:18 <b>water</b> 4:21 5:6 7:11,13 8:9 8:20 11:10 12:4,9 23:14 24:2 29:8 31:9 32:2 34:19 35:2 39:6,7 43:19 50:15 53:16 54:2,15 56:23 57:6 57:17 64:20 67:5 69:20 70:9 73:22 75:2 81:5,7,8 81:14,15 82:4 <b>waterfowl</b> 34:8 54:11 <b>waters</b> 35:5,15 <b>watershed</b> 70:10 <b>way</b> 11:22,24 21:9 47:21 54:7 57:20 72:19 <b>ways</b> 51:24 <b>weakens</b> 42:23 <b>Web</b> 85:2,2 <b>website</b> 42:7 84:22 <b>weed</b> 72:11,16,23 73:2 <b>weeds</b> 72:20 <b>weed-free</b> 72:5 <b>week</b> 9:13 11:17 13:24 <b>welcome</b> 3:7 <b>welcomed</b> 57:4 <b>wells</b> 20:15 <b>went</b> 18:6 56:17,22 58:13 63:10 <b>west</b> 1:14 20:8 <b>western</b> 9:21 10:23 11:19 19:17 <b>wetlands</b> 10:20 <b>we'll</b> 6:12 24:9 27:6,19 28:9 40:10 61:4 64:16 69:19 81:13,14 85:9 <b>we're</b> 3:4,9 4:14,23 5:8 6:10 9:18 15:8 16:8,9,10 20:3,14 23:15 25:6,23	26:13 27:4,5 39:12 48:12 54:5,8,13 58:5 59:12,13 59:16,19 61:17,18 64:19 64:19 68:4 72:17 74:16 75:7,17 77:5,7 81:19 82:15 <b>we've</b> 3:12 4:7,7 19:11 30:5 51:6,6,6,8,8 57:17 60:5 64:15 <b>white</b> 63:24 <b>whole-heartedly</b> 53:4 <b>Wild</b> 53:14,14 <b>wildlands</b> 29:10 <b>wildlife</b> 7:9,10 <b>willing</b> 68:16 71:14 78:18 <b>Willis</b> 12:7 29:7 <b>willow</b> 25:2 <b>wind</b> 35:21 <b>wish</b> 49:3 76:10 77:8 <b>wishes</b> 70:22 76:4 <b>wishing</b> 70:20 76:7 <b>woman</b> 66:21 68:13 <b>women</b> 68:16 <b>Women's</b> 55:16 <b>wonderful</b> 44:13,15 47:12 48:9 <b>wondering</b> 80:17 <b>wood</b> 54:4,9 <b>work</b> 6:4 12:22 13:13 16:6 16:7,12,13,15,16 17:2,18 17:23 18:10,16,16,22 21:11 23:5 38:8 58:18 59:8,14 72:19 73:3 77:13 77:15,15 84:2 85:11 <b>worked</b> 24:5 58:14 59:4,5 59:22 <b>working</b> 8:23 12:12 16:22 30:19 39:21 52:23 72:9 77:11 85:8 <b>works</b> 79:6 <b>world</b> 50:13 59:14,17,19 <b>worry</b> 57:6 <b>worthy</b> 38:11 <b>wouldn't</b> 48:13 66:15 83:8	<b>wow</b> 56:18 <b>writing</b> 27:13 40:15 <b>written</b> 26:24 37:7 <b>wrong</b> 49:21 <hr/> <b>Y</b> <hr/> <b>yacht</b> 30:22 31:2,10 33:8 37:16 38:13,22 39:5 73:4 <b>yachting</b> 53:23 <b>yachts</b> 68:7 <b>yards</b> 7:22 42:12 <b>Yeah</b> 28:13,14 81:3 82:3 <b>year</b> 3:13 4:8 7:6 9:7 10:5 10:7 12:15,17,20 13:5,17 15:21 17:16 24:6 29:6 31:13 45:11 50:20 63:14 65:13 66:15 <b>yearly</b> 17:20 <b>years</b> 4:13 17:17,17 23:3,4 23:8,16 28:23 39:5 46:20 50:8,9 51:5 53:16 56:4,15 56:16,24 58:12,14 59:6 62:10,14 63:9,18 64:8 66:7,7,8,11 67:4,13 76:16 78:15 83:15,15 <b>York</b> 1:2,12,15 3:7 5:10 6:20 9:6 14:8,12,17 17:3 31:6 32:15 40:19 43:23 53:14,14,17 54:15,16 59:12,20 <b>young</b> 27:24 31:15 33:19 60:12 61:10 <hr/> <b>Z</b> <hr/> <b>zones</b> 34:24 36:7,16 <hr/> <b>1</b> <hr/> <b>1</b> 86:4,6 <b>10-19-2006</b> 2:1 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1
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37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 12th 6:17 13th 6:18 26:24 85:5 130 62:2 13204-2400 1:15 174th 51:20 1885 31:12 19 1:8 1975 58:15 1989 14:21 <hr/> 2 2005 4:14 5:16 6:21 17:15 19:6 2006 1:8 19:7 85:5 2007 9:19 2016 75:17 <hr/> 3 30th 5:4 <hr/> 5 581 1:11 <hr/> 6 615 1:14 690 12:3,8 20:7,8,24 <hr/> 7 7:08 1:9 3:2 <hr/> 8 8:50 1:9 85:13 85 86:6		
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**DECEMBER 2006**

**EXPLANATION OF SIGNIFICANT DIFFERENCES**

**Onondaga Lake Bottom Subsite  
of the Onondaga Lake Superfund Site  
Towns of Geddes and Salina, Villages of Solvay and Liverpool, and City of Syracuse,  
Onondaga County, New York**

**INTRODUCTION**

In accordance with Section 117 (c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and Section 300.435(c)(2)(I) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), if the Environmental Protection Agency (EPA) or New York State Department of Environmental Conservation (NYSDEC) selects a remedial action and, thereafter, determines there is a significant change with respect to that action, an Explanation of Significant Differences (ESD) and the reason for such changes must be issued.

EPA and NYSDEC issued a Record of Decision (ROD) in July 2005 which selected a remedy for the Onondaga Lake Bottom Subsite of the Onondaga Lake Superfund Site (Site). A key element, among others, of the selected remedy is the dredging of as much as an estimated 2,653,000 cubic yards (cy) of contaminated sediments/waste from the littoral zone in Sediment Management Units (SMUs) 1 through 7 (see Figures 1 and 2 depicting the location of the Site and SMUs, respectively) to a depth that will prevent the loss of lake surface area, ensure cap effectiveness, remove non-aqueous-phase liquids (NAPLs), reduce contaminant mass, allow for erosion protection, and reestablish the littoral zone habitat. Most of the dredging would be performed in the in-lake waste deposit (ILWD) (which largely exists in SMU 1) and in SMU 2.

The remedy described in the ROD was selected based largely on data collected as part of the Remedial Investigation (RI) for the site. Specific to SMU 2, the selected remedy includes dredging NAPLs to an estimated 30-ft (9-m) depth in the vicinity of the causeway over an area of approximately 4.8 acres. Subsequent to the issuance of the ROD, additional data were generated in 2005 and 2006 in SMU 2 as part of the pre-design investigation to more accurately define the extent of NAPLs in this area. These new data show that the Site conditions and contaminant distribution are significantly different than were previously thought in SMU 2 along the causeway, and a small adjacent area in SMU 1. Based on the new information, a revision to the portion of the remedy that pertains to the SMU 2 causeway area and a small adjacent area in SMU 1 was evaluated as described herein.

This ESD addresses only dredging required to recover pooled NAPLs in the SMU 2 causeway area and a small adjacent area in SMU 1. This ESD does not affect any other dredging required in the ROD. The remedy modifications maintain the protectiveness of the selected remedy and comply with the federal and state requirements identified in the ROD.

This ESD will become part of the Administrative Record file for the Site. The complete Administrative Record file, which contains information (including the ESD, the Onondaga Lake Remedial Investigation/Feasibility Study (RI/FS), Human Health Risk Assessment, and the Baseline Biological Risk Assessment) upon which the selection of the response action has been based, is

available at the asterisked locations listed below. The other listed repositories contain key documents (e.g., the ESD, RI/FS reports, Proposed Plan, and Record of Decision), but do not contain the entire administrative record.

These documents are available for review at the following locations:

**Atlantic States Legal Foundation \***

658 West Onondaga Street  
Syracuse, NY 13204  
Phone: (315) 475-1170  
Please call for hours of availability

**NYSDEC, Region 7 \***

615 Erie Blvd. West  
Syracuse, NY 13204  
Phone: (315) 426-7400  
Hours: M - F, 8:30 a.m. - 4:45 p.m.  
Please call for an appointment

**Onondaga County Public Library Syracuse Branch at the Galleries**

447 South Salina Street  
Syracuse, NY 13204-2400  
Phone: (315) 435-1800  
Hours: M, Th, F, Sat, 9:00 a.m. - 5:00 p.m.; Tu, W, 9:00 a.m. - 8:30 p.m.

**Liverpool Public Library**

310 Tulip Street  
Liverpool, NY 13088  
Phone: (315) 457-0310  
Hours: M - Th, 9:00 a.m. - 9:00 p.m.; F, 9:00 a.m. - 6:00 p.m.; Sat, 10:00 a.m. - 5:00 p.m.;  
Sun, 12:00 p.m. - 5:00 p.m.

**Camillus Town Hall**

4600 West Genesee Street, Room 100  
Syracuse, New York 13219  
Phone: (315) 488-1234  
Hours: M-F, 8:30 a.m. - 4:30 p.m.

**Moon Library**

SUNY ESF  
1 Forestry Drive  
Syracuse, NY 13210  
Phone: (315) 470-6712  
Hours: check <http://www.esf.edu/moonlib/>

**NYSDEC \***

625 Broadway

Albany, NY 12233-7016

Phone: (518) 402-9767

Hours: M - F, 8:30 a.m. - 4:45 p.m.

Please call for an appointment

Detailed information on the ESD and other aspects of the Onondaga Lake cleanup is also available online at <http://www.dec.state.ny.us/website/der/projects/ondlake/> on the DEC website.

EPA and NYSDEC have determined that the revision to the remedy does not constitute a fundamental alteration of the remedy selected in the 2005 ROD. The selected remedy, with the minor revisions to that portion of it that pertains to SMU 2, will be protective of human health and the environment and will comply with the federal and state requirements identified in the ROD.

**SITE HISTORY, CONTAMINATION PROBLEMS, AND SELECTED REMEDY/IMPLEMENTATION**Site Description and History

On June 23, 1989, Onondaga Lake was added to the New York State Registry of Inactive Hazardous Waste disposal sites. On December 16, 1994, Onondaga Lake and areas upland that contribute or have contributed contamination to the lake system were added to the EPA's National Priorities List (NPL). This NPL listing means that the lake system is among the nation's highest priorities for remedial evaluation and response under the federal Superfund law for sites where there has been a release of hazardous substances, pollutants, or contaminants. In November 2004, Honeywell International, Inc. (Honeywell), a potentially responsible party at the Site, completed the Feasibility Study (FS) for the Site. On November 29, 2004, the Proposed Plan was released for public comment. Following an extensive public outreach program and the review of public comments, EPA and NYSDEC issued a ROD on July 1, 2005, documenting the selection of a remedy for the Site.

Selected Remedy

As mentioned above, based on the results of the RI/FS, EPA and NYSDEC issued a ROD in July 2005 which selected a remedy for the site. Among other actions, the ROD provides for dredging of as much as an estimated 2.65 million cubic yards (cy) of sediments and/or waste material. Specific to SMU 2, the selected remedy includes dredging of an estimated 403,000 cy of sediments and/or wastes prior to capping. This includes dredging to remove NAPLs to an estimated 30-ft (9-m) depth in the vicinity of the causeway (the assumed area of NAPLs is shown on Figure 4.26 of Honeywell's November 2004 FS). These NAPLs were thought to be present beneath the lake bottom due to subsurface migration from an upland source. To prevent ongoing migration of NAPLs and contaminated groundwater from upland sources to the lake, a subsurface barrier wall and groundwater containment system will be constructed in the vicinity of the SMU 2 lakeshore prior to remediation of the lake as part of the Willis/Semet Barrier Wall and Groundwater Collection and Treatment System Interim Remedial Measure (IRM).

The SMU 2 remedy also includes dredging to shallower depths in other areas to prevent loss of lake surface area, for erosion protection and to reestablish habitat, and to remove sediments and/or wastes from the portion of the ILWD which extends into SMU 2. The SMU 2 remedy includes



capping of sediments that exceed cleanup criteria. These other elements of the selected remedy (i.e., elements other than dredging for NAPLs) will not be affected by this ESD.

## **DESCRIPTION OF SIGNIFICANT DIFFERENCES AND THE REASONS FOR THOSE DIFFERENCES**

Subsequent to the issuance of the ROD, an extensive pre-design investigation was conducted in SMU 2 in the Fall of 2005 and the Spring of 2006 to identify the extent of pooled NAPLs and to characterize the subsurface conditions. Based on these investigations, it was determined that NAPLs in the causeway area extend a short distance into the adjacent SMU 1, but the overall extent of pooled NAPLs beneath the lake bottom in SMU 2 is significantly smaller than was anticipated. The ROD assumed that the NAPLs were present beneath the lake bottom over an area of approximately 4.8 acres. The pre-design investigation results indicate, however, that the NAPLs extend over an area of approximately 2 acres which includes the causeway area in SMU 2, and an adjacent portion of SMU 1. (See Figure 3.)

The ROD assumed that the NAPLs extended to a depth of approximately 30 feet beneath the lake bottom. However, the pre-design investigation results indicate that the pooled NAPLs frequently exist as a single layer at a depth below the lake bottom that is typically in the 15- to 25 feet range. The average thickness of the NAPLs is less than 2 feet. As a result, there is significantly less volume of NAPLs-impacted material beneath the lake in SMU 2 than was assumed during the FS and ROD. While the ROD assumed that there were approximately 233,000 cy of NAPLs present within SMU 2, the pre-design investigation results indicate that the actual quantity of NAPLs present within SMU 2 (and the adjacent portion of SMU 1) is approximately 5,000 cy. This is a conservative estimate as it assumes that NAPLs are present across the entire area that would be contained by the barrier wall.

The ROD assumed that approximately 386,000 cy of sediments would need to be dredged from SMU 2 in order to remove the NAPLs. This value is larger than the NAPLs volume (which the ROD assumed to be approximately 233,000 cy) since it also includes the volume of materials which would slough into the excavation during dredging (sloughing volume) and the volume of materials associated with over dredging (over dredge volume).

In light of the pre-design results discussed above, the potential dredge removal volume associated with removing NAPLs in this area is significantly less than that assumed in the ROD. More specifically, approximately 157,000 cy of sediments would need to be dredged from SMU 2 (and the adjacent portion of SMU 1) in order to remove the NAPLs. This value includes the NAPLs volume, as well as the volume of materials that are present above the NAPLs, and the sloughing and over dredge volumes.

Dredging of the NAPLs in the causeway area would require dredging immediately adjacent to the shoreline barrier wall which will be installed as part of the Willis/Semet IRM. The ROD assumed that the barrier wall would be constructed adjacent to the lake. However, during design of the wall, it became evident that the presence of utilities beneath and adjacent to the causeway would preclude the installation of the barrier wall on the landward side of the causeway. Therefore, it was determined that the eastern portion (the causeway portion) of the barrier wall should instead be installed on the lakeside of the causeway, but as close as possible to the existing causeway (i.e., 15 to 20 feet into the lake). The data collected as part of the pre-design investigation in 2005 allowed

an evaluation of the stability of this wall during dredging. The stability of the wall and the adjacent upland area is particularly critical due to the presence of a major sewer pipeline, other utilities, and interstate highway, I-690, immediately adjacent to the shoreline. This stability evaluation indicated that the barrier wall and adjacent upland area would be potentially unstable and could collapse during dredging to the depth required to remove the NAPLs as called for in the ROD. The only reliable way to achieve a stable wall would be to install the barrier wall through the clay layer beneath the NAPLs. Installation of the wall through the clay layer, however, could provide a pathway for the NAPLs to migrate into deeper zones. Due to the risk of producing such a pathway, penetrating the clay with a barrier wall is not a preferable option.

Based on the new data and the stability evaluation, the most appropriate remedy to address NAPLs in the causeway area in SMU 2 and the adjacent area in SMU 1, is to locate the Willis/Semet IRM barrier wall off-shore immediately beyond the furthest extent of pooled NAPLs within the lake (See the Figure 3.) and to install additional NAPLs recovery wells (to supplement the existing NAPLs recovery system) between the barrier wall and the causeway. The wall will be tied into the underlying clay layer and clean fill will be placed behind the wall. This will eliminate the need for dredging to address pooled NAPLs within SMU 2 and in the adjacent area within SMU 1, and will address the geotechnical stability concerns while being protective of public health and the environment. The NAPLs will be completely isolated from the lake. The additional NAPLs recovery wells will be installed behind the wall as part of the Willis/Semet IRM and on the northwestern area of the Wastebed B/Harbor Brook subsite to enhance the recovery of NAPLs present in the subsurface. Recovered NAPLs will be treated and/or disposed of off-site.

Design of the barrier wall includes an evaluation of contaminant types (including NAPLs), wall construction materials, and compatibility testing to ensure the long term effectiveness of the barrier system. Following the construction of the barrier wall, a monitoring program will be employed to verify that the system is operating as designed. If appropriate based on monitoring results, additional monitoring will be incorporated into the program to evaluate the effectiveness of the barrier wall.

As compensatory mitigation for the loss of aquatic habitat resulting from placement of the barrier wall, existing upland area adjacent to Onondaga Lake will be converted to new aquatic habitat. The design document for remediation of SMU 2, and the adjacent area in SMU 1, will include specifications for the construction of a natural shoreline lakeward of the barrier wall that is consistent with the lakewide habitat restoration plan ("Remedial Design Elements for Habitat Restoration document"). The construction of the shoreline will be completed as the final step of the remediation in SMU 2, and the adjacent area of SMU 1, lakeside of the barrier wall.

Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act apply to the above proposed change in the remedy. Except as otherwise provided under Clean Water Act Section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. Section 10 of the Rivers and Harbors Act generally requires approval for the construction of any structure in or over any navigable water of the United States, the excavation/dredging or deposition of material in these water or any obstruction or alteration in a navigable water. The modified remedy will be performed in conformance with the substantive requirements of regulatory programs implemented by the U.S. Army Corps of Engineers under

Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act and will utilize best management practices to ensure utmost protection to the aquatic resource during construction operations and as part of the proposed reestablishment of habitat.

The other dredging and capping and related remedial activities required in the ROD in SMU 2, and elsewhere, (to prevent loss of lake surface area, for erosion protection and to reestablish habitat, and to remove sediments and/or wastes from the portion of the ILWD which extends into SMU 2), will be implemented as specified in the ROD.

#### **AFFIRMATION OF STATUTORY DETERMINATIONS**

This ESD modifies a remedy that leaves hazardous substances, pollutants or contaminants above levels that allow for unlimited use and unrestricted exposure. Pursuant to CERCLA Section 121 (c), NYSDEC and EPA shall review such remedies no less often than every five years after the initiation of remedial action to assure that human health and the environment are protected.

Considering the new information that has been developed, NYSDEC and EPA have both determined that the selected remedy, with the modifications described in this ESD, remains protective of human health and the environment, complies with federal and state requirements that are applicable or relevant and appropriate to this remedial action, and is cost-effective. In addition, the remedy utilizes permanent solutions and alternative treatment technologies to the maximum extent practicable for this site.

#### **PUBLIC PARTICIPATION ACTIVITIES**

Public participation relating to this ESD was conducted pursuant to the public participation activities provided for in the context of the public notice of the lodging in the United States District Court for the Northern District of New York of a proposed Consent Decree concerning the Site between the State of New York and Honeywell.

Should there be any questions regarding this ESD, please contact:

Timothy Larson, P.E.  
Onondaga Lake Superfund Site - Public Comments  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7016  
(518) 402-9767  
E-mail: [tjlarson@gw.dec.state.ny.us](mailto:tjlarson@gw.dec.state.ny.us)

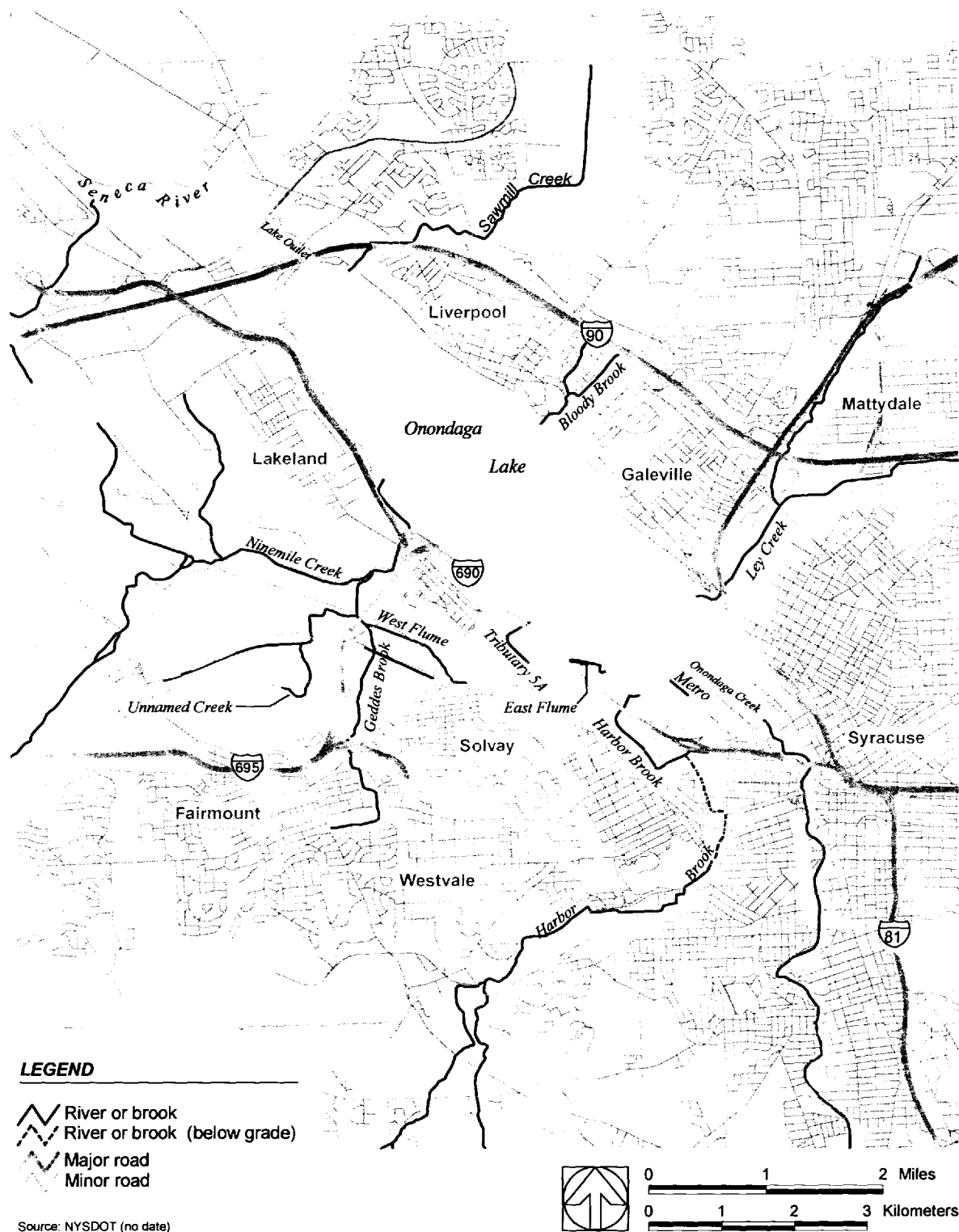
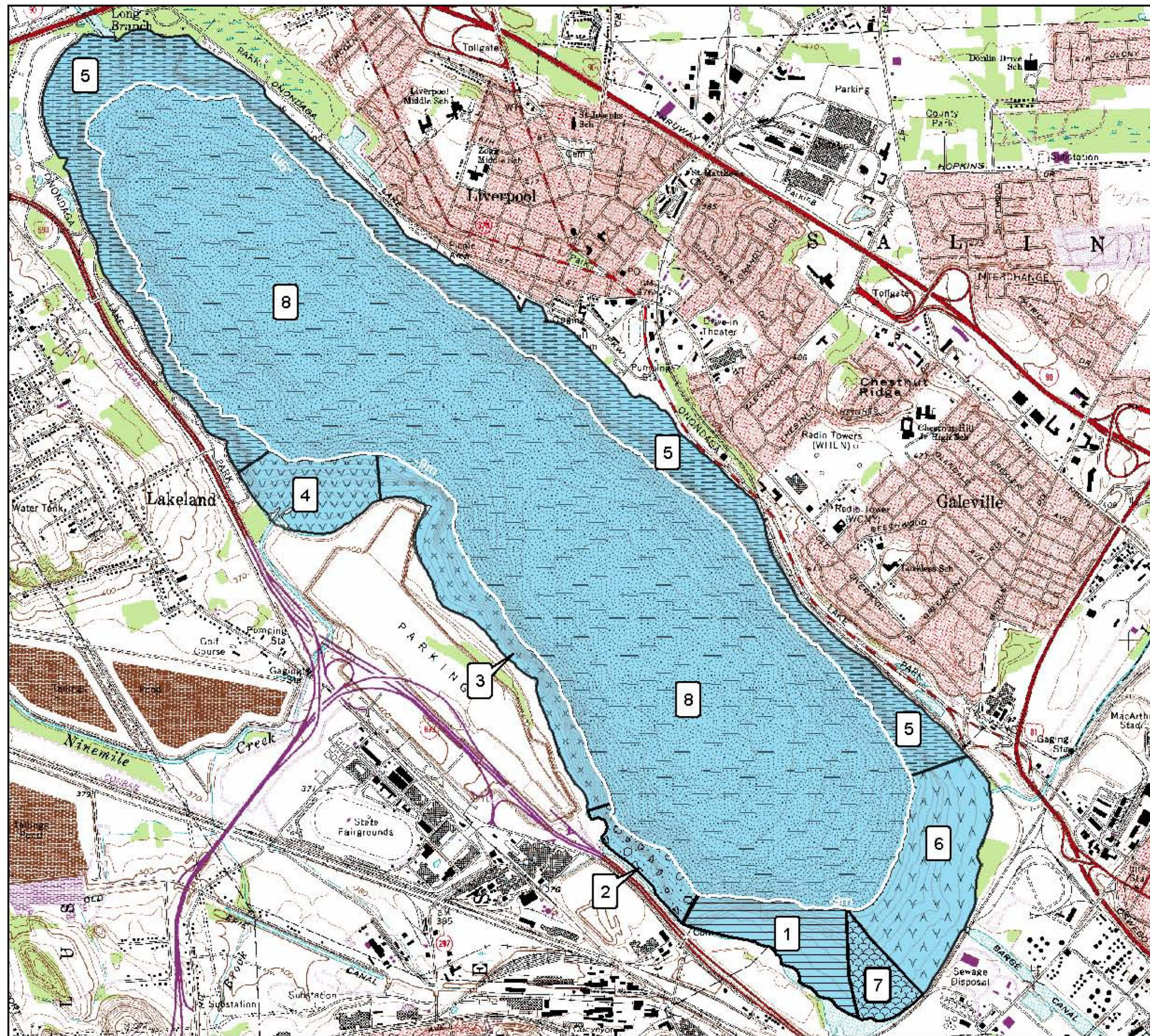


Figure 1 Onondaga Lake Area Tributaries and Roads

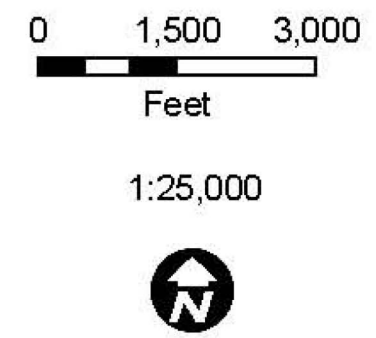




- 1 SMU 1 - In-Lake Waste Deposit (ILWD)
- 2 SMU 2 - Causeway
- 3 SMU 3 - Wastebeds 1 through 8
- 4 SMU 4 - Mouth of Ninemile Creek
- 5 SMU 5 - Northern Shore
- 6 SMU 6 - Ley Creek to 700 ft south of Onondaga Creek
- 7 SMU 7 - 700 ft south of Onondaga Creek to the ILWD
- 8 SMU 8 - Profundal Area

NOTES

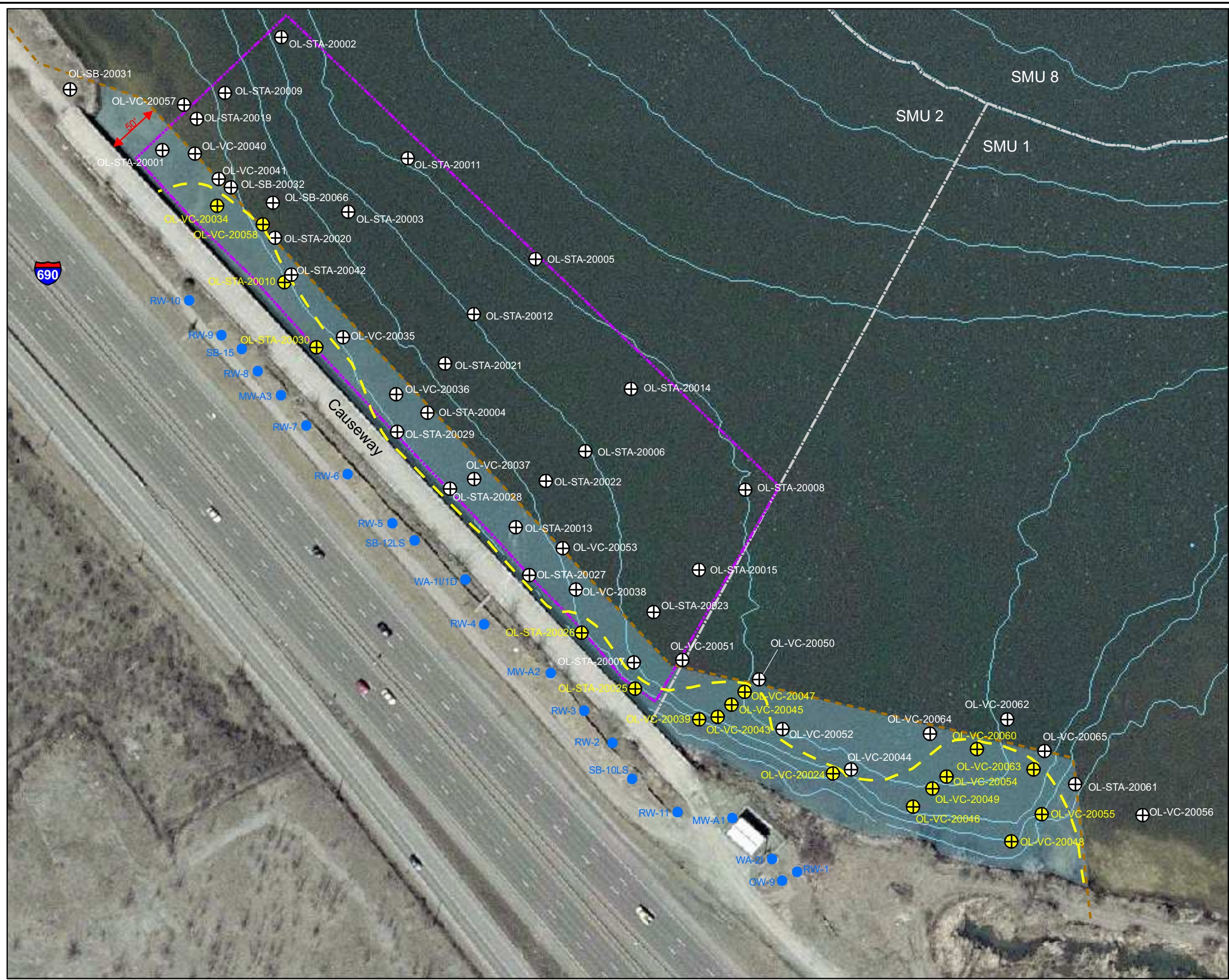
- 1. Bathymetric contour (9 meter) highlighted in white
- 2. Boundary between littoral and profundal zone is the 9 meter contour.



**Figure 2**

Sediment Management Units (SMUs)





- Existing Onshore NAPL Recovery Well
- ⊕ 2005/2006 Core does not contain pooled NAPL but may contain isolated NAPL stringers, seams and/or globules in Solvay Waste (see text in ESD)
- ⊕ 2005/2006 Core Contains pooled NAPL (see text in ESD)
- Barrier Wall Alignment (Approximate)
- Extent of Pooled NAPL
- Extent of Pooled NAPL Removal Area Assumed in the FS/ROD

Notes:

1. Bathymetry is shown in 4' intervals.

90 45 0 90  
Feet

FIGURE 3

**Honeywell** Onondaga Lake  
Syracuse, New York

Pooled NAPL Extent  
and Barrier Wall Alignment

**PARSONS**

290 ELWOOD DAVIS RD, SUITE 312, LIVERPOOL, NY 13088 Phone:(315)451-9560



12/14/2006

Date



Donald J. Hesler, Section Chief  
Section A, Remedial Bureau B

12/14/06

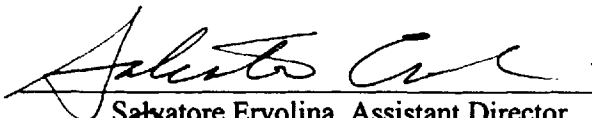
Date



P. David Smith, Bureau Chief  
Remedial Bureau B

12/14/06

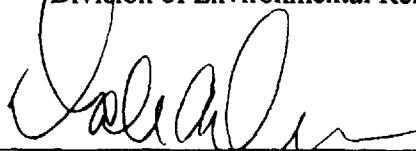
Date



Salvatore Ervolina, Assistant Director  
Division of Environmental Remediation

12/14/06

Date



Dale Desnoyers, Director  
Division of Environmental Remediation





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

December 14, 2006

Denise M. Sheehan  
Commissioner  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7016

Re: Onondaga Lake, Lake Bottom Subsite Explanation of Significant Differences

Dear Commissioner Sheehan:

The U.S. Environmental Protection Agency (EPA) has reviewed the public comments provided on the draft Explanation of Significant Differences (ESD) for the Lake Bottom Subsite of the Onondaga Lake site, which was released to the public by the New York State Department of Environmental Conservation on October 12, 2006 along with a proposed Consent Decree and draft Siting Evaluation for the Sediment Consolidation Area. EPA approves of the release of the draft ESD as a final document without any revisions. The ESD should be incorporated into the Administrative Record file for the Lake Bottom Subsite.

If you have any questions regarding this matter, please contact me at (212) 637-5000.

Sincerely,

A handwritten signature in black ink, reading "Alan J. Steinberg", is positioned above the typed name and title.

Alan J. Steinberg  
Regional Administrator

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Sir:

Please take notice that the within is a true  
copy of  
duly filed and entered in the office of the Clerk  
of \_\_\_\_\_ County, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 20 .

Yours, etc.,  
ELIOT SPITZER  
Attorney General,

Attorney For

Office and Post Office Address  
120 Broadway, New York, NY 10271  
To \_\_\_\_\_, Esq.

Attorney for

---

Sir:

Please take notice that the within  
  
will be presented for settlement and signature herein  
to the Hon.  
one of the judges of the within named Court, at

in the Borough of \_\_\_\_\_  
City of New York, on the \_\_\_\_\_ day of \_\_\_\_\_  
20 , at \_\_\_\_\_ M.

Dated, NY, \_\_\_\_\_, 20

Yours, etc.  
ELIOT SPITZER  
Attorney General,

Attorney For

Office and Post Office Address  
120 Broadway, New York, NY 10271  
To \_\_\_\_\_ Esq.

Attorney for

**89-CV-815 Chief Judge Scullin  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**STATE OF NEW YORK and DENISE SHEEHAN  
as Trustee of the Natural Resources,**

**Plaintiffs,**

**-against-**

**HONEYWELL INTERNATIONAL INC.,**

**Defendant.**

**REQUEST FOR APPROVAL AND ENTRY OF  
PROPOSED CONSENT DECREE**

**ELIOT SPITZER**

Attorney General

**NORMAN SPIEGEL**

Attorney for **Plaintiffs**

Office and Post Office Address  
120 Broadway, New York, NY 10271  
Tel. 212 416-8454

Personal service of a copy of

within

is admitted this \_\_\_\_\_ day of \_\_\_\_\_  
20 .

## **APPENDIX C**

### **I. INTRODUCTION**

This Statement of Work (“SOW”) describes a number of design-related elements for the implementation of the remedial activities required by the Consent Decree.

### **II. DEVELOPMENT OF DREDGING AREAS AND VOLUME**

Honeywell shall dredge as much as an estimated 2,653,000 cubic yards of sediments and/or waste material from the littoral zone of Onondaga Lake (“Dredge Volume”). All dredging required for Onondaga Lake is included in this Dredge Volume.

Honeywell shall submit a remedial design for dredging of sediments and/or waste material in Onondaga Lake. Specific dredging locations and volumes shall be determined using the various criteria set forth in the ROD (“Dredging Design Principles”), including those described below. The Dredging Design Principles shall be evaluated independently and separately for each sediment management unit (“SMU”); for example, additional dredging will not be required in one SMU solely as a result of a dredge volume in any other SMU that is less than estimated in the ROD.

*In-Lake Waste Deposit (ILWD)* -- Honeywell shall dredge sediments and/or wastes from the ILWD in SMU 1 to an average depth of 2 meters, provided, however that in areas where the ILWD is less than 2 meters thick, dredging depth will be determined by the thickness of the ILWD. This approach will also be used in SMUs 2 & 7 for those areas where ILWD is present. For purposes of added clarity, the Parties agree that nothing in this Paragraph will impact the dredging depths, locations or volumes required pursuant to any of the other Dredging Design Principles.

*Geotechnical Stability* -- Honeywell shall dredge material from the ILWD if necessary to ensure the geotechnical stability of the Isolation Cap. The determination of geotechnical stability shall consider both static and seismic stability of the ILWD. The determination of seismic stability shall be based on an analysis of cap stability during an operating level event (i.e., a seismic event with a 50 percent chance of exceedance in 50 years) and a contingency level event (i.e., a seismic event with a 10 percent chance of exceedance in 50 years). If the analysis of geotechnical stability demonstrates that the remediated slope would have an operating and/or contingency seismic slope stability factor of less than 1.1, Honeywell shall evaluate the deformation of the cap and the ILWD under the seismic event. If the analysis of the geotechnical stability demonstrates that the remediated slope would have a static slope stability factor of less than 1.5 or if the predicted operating and/or contingency seismic deformation would compromise the performance of the isolation cap, Honeywell shall dredge sufficient material from the ILWD to ensure the geotechnical stability of the Isolation Cap, provided, however, that Honeywell may propose alternative engineering measures to ensure the ILWD is not exposed. If a seismic event occurs that exceeds the operating and/or contingency criteria stated herein, or if there is an event that has the potential to cause damage to the cap, Honeywell shall timely inspect and repair any damaged portions of the Isolation Cap. Should any event result in the migration of wastes and/or contaminated materials beyond the

limits of the Isolation Cap, Honeywell shall remediate those materials in a timely manner as well.

*Littoral Zone Habitat Related Dredging* -- Honeywell may propose to place the Isolation Cap in areas of the littoral zone without dredging. The DEC will approve the proposal, if appropriate, provided that it is consistent with the findings of the remedial design elements for the habitat restoration plan, the requirements of the ROD, and the 6 NYCRR Part 608.8 standards.

*SMU 2 Non-Aqueous-Phase Liquids (NAPLs)* -- As part of the Willis/Semet Interim Remedial Measure (IRM) hydraulic containment system, a barrier wall will be installed in the lake offshore from the causeway to isolate any shallow sources of NAPL. The location and alignment of the barrier wall shall be based on data collected during the Spring 2006 NAPL sampling program and will ensure that shallow NAPL can be contained by the wall. The anticipated location of the barrier wall is depicted on Figure 1, attached hereto. Based upon pre-design sampling and analysis, Honeywell shall design, install and operate NAPL recovery wells in the vicinity of the existing shoreline NAPL recovery system and the barrier wall. NAPL recovered from these wells shall be transported off-site for treatment and disposal. Dredging for NAPLs shall not be required in the area of SMU 2 landward of the barrier wall. For purposes of added clarity, the proceeding sentence will not impact the dredging depths, locations or volumes required pursuant to any of the other Dredging Design Principles.

The design document for the Willis/Semet Barrier IRM shall include specifications for construction of a lakeshore area between the causeway and the barrier wall which shall be constructed concurrent with the IRM. The design document for remediation of SMU 2 shall include specifications for construction of a shoreline lakeward of the barrier wall that is consistent with the lakewide habitat restoration plan ("Remedial Design Elements for Habitat Restoration document"). The construction of the shoreline shall be completed as the final step of the SMU 2 remediation.

Honeywell shall replace aquatic habitat lost as a result of the Willis/Semet IRM and/or SMU2 NAPL containment described above (Compensatory Mitigation). The design document for the Willis/Semet IRM shall include conceptual design information for the construction of a Compensatory Mitigation project. The conceptual design shall be consistent with the lakewide habitat restoration plan (i.e., the "Remedial Design Elements for Habitat Restoration" document). Within 6 months of receipt of the DEC's comments on the conceptual design submittal, Honeywell shall submit a detailed design including a proposed schedule for implementation of the Compensatory Mitigation project. Construction of the Compensatory Mitigation project shall be in accordance with the Department-approved design, which design shall include an implementation schedule.

### **III. ISOLATION CAP AREAS, MODELS & COMPONENTS**

Honeywell shall design and install an Isolation Cap in the littoral zones of Onondaga Lake based upon the areas designated in the ROD for placement of a cap and the pre-design investigation. The Isolation Cap shall consist of a mixing layer, a chemical isolation layer, an

erosion protection layer (to the extent needed), a habitat layer and a safety layer, as set forth in the ROD. The habitat layer shall have a minimum thickness of 12 inches and shall be constructed of suitable habitat material. The appropriate thickness of the habitat layer shall be determined during the development of the comprehensive lakewide habitat restoration plan. Except if necessary to meet the minimum thickness requirement, the habitat layer shall not exceed the thickness needed to provide suitable habitat for plant and animal species typical of central New York State and to allow the viability of the littoral zone as a resource for humans and biota as provided in 6 NYCRR Part 608.7.

As provided in the ROD, a thin layer cap in lieu of the Isolation Cap may be appropriate in some depositional portions of the littoral zones in water depths between 6 to 9 meters. Honeywell may propose the use of a thin layer cap in these areas as part of its remedial design. If so, DEC would perform a technical evaluation of the proposal to determine if the use of a thin layer cap in this area would be effective at isolating the contaminated sediments consistent with the criteria in the ROD.

#### **IV. PROFUNDAL AREA (SMU 8)**

Honeywell shall design and install a thin-layer cap ("TLC") in the profundal area of Onondaga Lake as set forth in the ROD.

Honeywell shall conduct a study (which may include the performance of a nitrification pilot study as determined by DEC) to determine if nitrification would effectively reduce the formation of methyl mercury in the water column while preserving the normal cycle of stratification within the lake. If DEC determines that nitrification is effective and appropriate based upon the results of this study, this will be documented in an ESD, and Honeywell shall be required to implement a nitrification program in lieu of oxygenation. If DEC determines that nitrification is not effective and/or appropriate, Honeywell shall conduct an oxygenation pilot study and implement oxygenation as provided in the ROD.

#### **V. MANAGEMENT OF DREDGED SEDIMENTS**

As provided in the ROD, Honeywell shall dispose of the majority of sediments dredged from Onondaga Lake in a Sediment Consolidation Area ("SCA"). The SCA shall be constructed on Solvay Wastebed 13, located south of Ninemile Creek and west of Geddes Brook. Honeywell shall design, operate and maintain the SCA in accordance with the substantive requirements of NYSDEC Regulations Part 360, Section 2.14(a) (industrial monofills). The SCA shall have the following elements:

*Impermeable Liner* -- Honeywell shall design and install an impermeable liner system. The grading design for the SCA shall utilize the existing surface topography of Wastebed 13 as much as possible so as to limit wastebed cut and fill requirements and the associated need for a large volume of imported soil fill. Preloading and stabilization of the wastebed shall only be required to the extent necessary to ensure the integrity of the SCA components and underlying Solvay waste foundation, based upon the remedial design.

*Leachate Collection* -- The impermeable liner shall be overlain by a leachate collection system. The type of system will be determined during Remedial Design.

A laterally-transmissive sand or geosynthetic liquid collection layer may be considered by DEC for inclusion in the system. The system shall convey leachate by gravity drainage to collection sumps where the leachate will be pumped via force main to a water treatment plant.

*SCA Cover* -- The SCA cover shall be designed pursuant to applicable regulations and guidance including the U.S. EPA Alternative Cover Assessment Program (“ACAP”). If appropriate based upon the Remedial Design, the SCA cover may utilize a soil layer and ecological plant community to produce evapotranspiration rates sufficient to reduce precipitation infiltration rates to acceptably low levels.

*NAPL Collection and Offsite Treatment and/or Disposal*-- Dredged material that may contain NAPLs shall pass through an oil/water separator. NAPLs that collect on the water surface within the oil/water separator, or that are otherwise collected, will be separated and collected for offsite treatment and/or disposal. In addition, the SCA liner and leachate collection system shall be designed and operated to collect for offsite treatment and/or disposal any NAPL present in the SCA leachate.

## **VI. WATER TREATMENT PLANT (WTP)**

Water from the processing of dredged sediments and/or wastes shall be treated and discharged back into the Lake, or other location if proposed by Honeywell and approved by DEC. Honeywell shall submit a remedial design for a WTP to treat this water prior to discharge. The discharge limits shall be determined by the DEC during the Remedial Design in accordance with the Department’s established guidance and regulations, provided, however, that the discharge limit for mercury shall be 0.2 ug/l.

The following constitutes Available Treatment Technologies for the WTP: (i) primary settling, (ii) addition of flocculants, (iii) secondary clarification, (iv) multi-media filtration, (v) granular activated carbon adsorption, (vi) ultrafiltration, (vii) sulfur-impregnated granular activated carbon adsorption, and/or (viii) technologies or processes needed to meet discharge limits for ammonia, phosphorous and BOD (including dechlorination if ammonia is removed by breakpoint chlorination processes). As part of the Remedial Design, Honeywell shall conduct a pilot study of some or all of the Available Treatment Technologies to determine the most cost-effective technology (or combination of technologies) available to achieve the discharge limits. This pilot study shall include dredge water from combined areas to ensure that the treated water is representative of the average anticipated conditions for the WTP.

At the conclusion of the Pilot Study, Honeywell shall submit for DEC approval an engineering report detailing the Available Treatment Technologies it proposes to be implemented for meeting the established discharge limits. The engineering report shall also include proposed methods to optimize performance of the WTP including staging of dredge locations, staging of flow from the SCA to the WTP, staging of water discharge, and water discharge techniques. Honeywell shall have reasonable discretion to determine the appropriate treatment technology or technologies for the WTP, provided that Honeywell is able to demonstrate to DEC that its proposed design (including any applicable optimization methods) will meet the discharge limits on a rolling four-week average. Honeywell may propose alternative water treatment approaches, provided, however, that no technologies or approaches

other than Available Treatment Technologies shall be utilized or required except upon the mutual consent of the Parties.

Prior to startup, Honeywell shall submit for DEC approval an Operation and Maintenance (O&M) Manual for the WTP. Upon startup of the WTP, a DEC approved treatability study shall be performed by Honeywell to evaluate the ability of the WTP to meet the discharge limits ("Treatability Study"). The Treatability Study shall include data from the first dredging season of operation. Should the Treatability Study indicate that the WTP is not capable of meeting the discharge limits (on a rolling four-week average), DEC may require the installation and operation of additional Available Treatment Technologies or the enhancement of such technologies if they are already included, taking into consideration among other factors those set forth in the ROD, *e.g.*, compliance with ARAR's, remedial action objectives, overall protectiveness of public health and the environment, and cost effectiveness. During the Treatability Study, exceedances of the discharge limits shall not constitute a violation of the Consent Decree provided that Honeywell is maintaining and operating the WTP consistent with the approved WTP O&M Manual including adjustments to the WTP that are intended to eliminate the exceedances. The WTP O&M Manual shall include, among other requirements for the Treatability Study, a requirement that Honeywell shall implement the applicable provisions of the Remedial Program Contingency Plan ("RPCP") if one of the following triggers occur after the first four months of the Treatability Study: (i) six or more exceedances of a specific pollutant discharge limit or (ii) four consecutive exceedances of a specific discharge limit. If the RPCP is necessary during the Treatability Study, DEC will consider the results of the RPCP in its evaluation of the Treatability Study.

This paragraph shall apply subsequent to the Treatability Study. For purposes of compliance with the Consent Decree, discharge limits shall be met on a rolling four-week average basis to be calculated as the arithmetic mean of the most recent four weeks of discharge data, exclusive of an annual two-week "shake down" period at the start of each dredging season. In the event that the WTP exceeds any discharge limit (on a rolling four-week average basis) during the operation of the plant, Honeywell shall take all applicable measures set forth in the RPCP. Among other things, the RPCP will set forth Honeywell's obligations for confirmatory sampling and corrective actions. If Honeywell is in compliance with the RPCP, an exceedance of a discharge limit shall not constitute a violation of the Consent Decree, provided, however, that if there is an exceedance of a discharge limit after Honeywell has implemented all applicable aspects of the RPCP (*i.e.*, all elements of the RPCP that are designed to achieve compliance with the discharge limits), the exceedance shall constitute a violation.

## **VII. DESIGN AND CONSTRUCTION SCHEDULE**

Honeywell shall make good faith efforts to design and construct the Remedial Program on an accelerated basis utilizing, where appropriate, a Design/Build approach, expedited sampling and analysis, and pre-design and construction of critical path components (*e.g.*, the SCA). The Parties shall make good faith efforts to design the Remedial Program (including actual construction of the SCA and WTP) within five years from entry of the Consent Decree. The NYSDEC will make good faith efforts to review and approve submittals on a priority basis. The dredging obligations required by the Consent Decree and this SOW shall be completed within four years subsequent to the construction of the SCA and WTP. The number of years required for dredging may be modified upon the agreement of the parties.



**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36  
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

**THIS INDENTURE** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Owner(s) Enter property owner(s) name, having an office at Enter property owner's address, County of Dutchess, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS**, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS**, Grantor, is the owner of real property located at the address of Enter street address of property in the Choose municipality type of Enter property municipality, County of Enter property county and State of New York, known and designated on the tax map of the County Clerk of Enter clerk county as tax map parcel numbers: Section Enter Tax ID Section #. Block Enter Tax ID Block # Lot Enter Tax ID Lot #, being the same as that property conveyed to Grantor by deed dated Enter Deed Date and recorded in the Enter county name or leave blank for NY City deeds County Clerk's Office in Liber and Page Enter Instrument # or Liber and Page #s. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately Enter Acreage +/- acres, and is hereinafter more fully described in the Land Title Survey dated Enter original survey date and, if applicable, "and revised on" and revised survey date prepared by Enter revised surveyor's name or original surveyor's name if not revised, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

**WHEREAS**, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Choose an Oversight Document TypeNumber: Enter SAC# or BCA/Consent Order Index # and “as amended by Amendment(s) #(s)” as applicable, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Choose the allowable land use if current land use is selected, enter current use.

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Automatic County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Choose the correct list of inapplicable uses., and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held  
by the New York State Department of Environmental Conservation**

## **pursuant to Title 36 of Article 71 of the Environmental Conservation Law.**

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:  
(i) are in-place;  
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:      Site Number: Enter DEC Site #  
Office of General Counsel  
NYSDEC  
625 Broadway  
Albany New York 12233-5500

With a copy to:      Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and

communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

**IN WITNESS WHEREOF**, Grantor has caused this instrument to be signed in its name.

Enter Grantor's Name:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_





**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK**, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: \_\_\_\_\_  
Robert W. Schick, Director  
Division of Environmental Remediation

## Grantee's Acknowledgment

[illegible]

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

---

**SCHEDULE "A" PROPERTY DESCRIPTION**

Enter Property Description